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ABSTRACT

The views of private industry and government are offered in this report of a hearing on the Federal Audiovisual Policy Act, which would establish an office to coordinate federal audiovisual activity and require most audiovisual material produced for federal agencies to be acquired under contract from private producers. Testimony is included from the following individuals: Representative Glenn English (Oklahoma); Joseph J. DiBuono, Videotape Production Association; James B. Faichney, Government Audiovisual Committee, Directors Guild of America; Sam Roberts, New York Council of Motion Picture and Television Unions; Donald Sowle, Office of Management and Budget, accompanied by LeRoy J. Haugh and Charles Clark; and W. G. Williams, Independent Media Producers Association, accompanied by Pare Lorentz, Jr. Letters, statements, and additional materials submitted for the record are included from Representative Howard L. Berman (California); Joseph J. DiBuono; Steve D'Inzillo, International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators of the United States and Canada; James B. Faichney; Representative Edward R. Roybal (California); Donald Sowle; Representative Henry A. Waxman (California); and W. G. Williams. Appendices include a statement by Jack Valenti, Motion Picture Association of America, Inc. (LMM)

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FEDERAL AUDIOVISUAL POLICY ACT

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HEARING

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON GOVERNMENT OPERATIONS HOUSE OF REPRESENTATIVES

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

H.R. 3325

TO ESTABLISH IN THE OFFICE OF MANAGEMENT AND BUDGET AN OFFICE TO BE KNOWN AS THE OFFICE OF FEDERAL AUDIOVISUAL POLICY, AND FOR OTHER PURPOSES

JUNE 29, 1984

Printed for the use of the Committee on Government Operations

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FEDERAL AUDIOVISUAL POLICY ACT

FRIDAY, JUNE 29, 1984

HOUSE OF REPRESENTATIVES,
GOVERNMENT INFORMATION, JUSTICE,
AND AGRICULTURE SUBCOMMITTEE
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:35 a.m., in room 2247, Rayburn House Office Building, Hon. Glenn English (chairman of the subcommittee) presiding.

Present: Representative Glenn English.

Also present: Leo C. Jardot, counsel; Euphon Metzger, clerk; and John J. Parisi, minority professional staff, Committee on Government Operations.

OPENING STATEMENT OF CHAIRMAN ENGLISH

Mr. ENGLISH. The hearing will come to order. Without objection, we will allow the photographing of today's proceedings. This hearing has been called to examine the views of private industry and government on H.R. 3325, the Federal Audiovisual Policy Act, which has been introduced by our colleague, Mr. Roybal of California.

Mr. Roybal is unable to be with us this morning but has submitted a statement which will be entered in the record. We certainly appreciate the benefit of his leadership and knowledge in this area. Representatives Berman and Waxman have also submitted statements which will be entered in the record following my opening remarks.

Federal audiovisual management, or mismanagement, has been the subject of congressional hearings, executive branch studies, and GAO reviews. The problems that have been identified include: duplication of production efforts among agencies; poor utilization of government facilities; and the lack of information on the volume and cost of Federal audiovisual production.

A year-long study conducted in 1978 resulted in the issuance of OMB Circular A-114, which contains the guidelines for management of Federal audiovisual programs. In 1981, President Reagan announced a moratorium on production of new audiovisual materials and a review of existing ones. That moratorium has resulted in further revisions of OMB guidelines.

According to the National Audiovisual Center, the Federal Government last year spent over $90 million producing audiovisual materials including motion pictures and videotapes. Some have

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called the Government's activities Hollywood on the Potomac and believe that the actual amount spent may be much greater.

H.R. 3325 would establish an Office of Federal Audiovisual Policy within the Office of Management and Budget that would be responsible for the coordination of Federal audiovisual activity. The legislation would require any audiovisual material produced for any Federal agency to be acquired under contract from private producers with some exceptions for classified and security-related materials.

[The bill, H.R. 3325, follows:]

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98TH CONGRESS
1ST SESSION

H. R. 3325

To establish in the Office of Management and Budget an office to be known as the Office of Federal Audiovisual Policy, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 15, 1983

Mr. ROYBAL introduced the following bill; which was referred to the Committee on Government Operations

---

A BILL

To establish in the Office of Management and Budget an office to be known as the Office of Federal Audiovisual Policy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Federal Audiovisual Policy Act".

SEC. 2. (a) Title 44, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 40—COORDINATION OF FEDERAL AUDIOVISUAL POLICY

"Sec.
"4001. Purpose.
"4002. Definitions.

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"4003. Office of Federal Audiovisual Policy.
"4004. Duties of the Director and Administrator.
"4005. Responsibilities of Federal agencies.
"4006. Labor standards for employees; healthy and safe working conditions.
"4007. Regulations.
"4008. Authorization of appropriations.

"§ 4001. Purpose

"The purpose of this chapter is to promote economy, efficiency, and effectiveness in the procurement, production, and distribution of audiovisual material by the Federal Government—

"(1) by establishing a uniform policy for all Federal agencies for such procurement, production, and distribution and eliminating competition by Federal agencies with private enterprise; and

"(2) by requiring audiovisual material to be produced outside the Government under contracts with private producers to the extent any such procurement is consistent with other requirements of this chapter.

"§ 4002. Definitions

"For purposes of this chapter—

"(1) the term 'Director' means the Director of the Office of Management and Budget;

"(2) the term 'Federal agency' has the meaning given it in section 552(e) of title 5;

"(3) the term 'Office' means the Office of Federal Audiovisual Policy established in section 4003;

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"(4) the term 'Administrator' means the Administrator of the Office;

"(5) the term 'audiovisual material' means any recording of any sight or sound without regard to the method of production of such recording or the form of the reproduction of the sound or sight recorded, including motion picture films, slide films, film strips, video tape recordings, video disc recordings, audio tape recordings, audio disc recordings, and the product of any other means, method, or device (now known or yet to be invented) for producing or reproducing sight or sound, but such term does not include any product of any reproduction (by any method) of documents, correspondence, or other pieces of paper;

"(6) the term 'audiovisual production' means the preparation and recording of any audiovisual material, including any research, writing, or other activity connected with the preparation of such material, any photographic recording, any sound and electronic recording, and any editing or reproducing of the product of any such activity by any means, method, or device (other than a reproduction of a document, item of correspondence, or other piece of paper);

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"(7) the term 'distribution' means any method of making any audiovisual material available to any audience;

"(8) the term 'employee' means any writer, director, actor, photographer, craftsperson, technician, or other individual employed by a producer on the basis of any skill, craft, or technical expertise practiced by such individual; and

"(9) the term 'producer' means any individual or organization, other than a Federal agency or an officer or employee of any such agency, engaged in the business of audiovisual production.

"§ 4003. Office of Federal Audiovisual Policy

"(a) There is established in the Office of Management and Budget an office to be known as the Office of Federal Audiovisual Policy.

"(b) There shall be at the head of such Office an Administrator who shall be appointed by the President with the advice and consent of the Senate.

"(c)(1) The Administrator may appoint such employees as may be necessary not to exceed thirty-five individuals. Not more than two employees of the Office, other than the Administrator, shall receive pay at a rate in excess of the minimum rate of pay for grade GS–15 of the General Schedule.

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"(2) The Administrator may employ, in accordance with section 3109(b) of title 5, experts and consultants from the audiovisual industry not to exceed a total of one hundred person-days in any fiscal year. The rate of pay for any such expert or consultant shall not exceed the daily equivalent of the minimum annual rate of basic pay payable for GS–18 of the General Schedule.

"§ 4004. Duties of the Director and Administrator

"(a) The Director shall develop and implement Federal policy, principles, guidelines, and procurement procedures with respect to the acquisition, production, and distribution of audiovisual material by Federal agencies.

"(b) The duties of the Administrator, pursuant to authority delegated by the Director, shall include the following:

"(1) In cooperation with the Administrator of the Office of Federal Procurement Policy and after consultation with representatives of Federal agencies (designated by the heads of such agencies pursuant to section 4005(b)), develop uniform procedures which will simplify procurement of audiovisual material by such agencies.

"(2) Eliminate unnecessary duplication in the production of audiovisual material by Federal agencies.

"(3) Subject to subsection (c), require any audiovisual material produced for any Federal agency

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to be acquired under contract from private producers to the extent such requirement is consistent with the purposes of this chapter.

"(4) Provide producers with information sufficient to provide a better understanding of the manner in which the Federal Government functions and the particular needs of the Federal Government with respect to audiovisual material for information, education, and training programs of the Federal Government.

"(5) Oversee any distribution outside the Federal Government of audiovisual material produced in whole or in part with Federal funds.

"(6) After consultation with representatives of producers and employees, representatives of Federal agencies (designated pursuant to section 4005(b)), and any other interested party, establish standards and selection criteria and procedures for the establishment and maintenance of a nationwide master producer list. Such selection procedures shall require a review of the quality of at least one sample of an audiovisual production of each producer who applies for placement on the list and the solicitation of quality and performance evaluations from clients (other than Federal agencies) of each such producer. Such list shall include a description of the production capabilities of each producer on

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such list and shall contain an appendix with a list containing the names of producers who specialize in particular areas of audiovisual production, including the following:

"(A) Animation.

"(B) Documentary programs.

"(C) Dramatic programs.

"(D) General information programs.

"(E) International information programs.

"(F) Medical, scientific, and technical information programs.

"(G) Television spots.

"(H) Training and education projects.

"(I) Oncamera spokesperson.

"(7) Provide such competency reviews, where applicable, to the Small Business Administration, for guidance prior to the issuance or reduction of any certificate of competency requested from the Small Business Administration by any producer or production organization in the audiovisual material business.

"(8)(A) Prepare a report at the end of each fiscal year beginning after the date of the enactment of this chapter which shall contain a summary of any action taken, recommendation made, or result obtained by the

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Director or Administrator with respect to audiovisual activity during such fiscal year.

"(B) Transmit such report to the President and the appropriate committees of the Congress before the end of the thirty-day period beginning on the last day of such fiscal year.

"(c) Notwithstanding subsection (b)(3), no regulation promulgated by the Administrator shall require any of the following material to be produced by a private producer (unless any such producer has or is able to acquire any required security clearance):

"(1) Audiovisual material involving or including any classified information.

"(2) Audiovisual material produced or maintained in connection with any criminal investigation or other law enforcement activity.

"(3) Audiovisual material produced or maintained in connection with the collection of any information relating to defense or national security.

"(4) Audiovisual material used or produced by any Federal agency which—

"(A) is produced in connection with scientific research, testing, or development with respect to which—

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"(i) the production time of such material is critical to the successful completion of such research, testing, or development; or

"(ii) other factors, in the judgment of the Administrator, justify the production of such material by such agency; and

"(B) will not be distributed or released by such agency to the public.

"(5) Audiovisual material for which the Administrator, at the request of the head of any Federal agency, may, in the Administrator's discretion, provide an exception.

"(d) Nothing in this chapter shall be construed—

"(1) to contravene the declared policy of Congress with respect to encouraging small business participation in Federal procurement programs; or

"(2) to limit the authority of the Director.

"§ 4005. Responsibilities of Federal agencies

"(a) Each Federal agency shall be responsible for carrying out its audiovisual activities in an efficient, effective, and economical manner, and for complying with the audiovisual policies, principles, standards, guidelines, and regulations prescribed by the Director or Administrator.

"(b) The head of each agency shall designate, within ninety days of the date of the enactment of this chapter, a

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senior official or, in the case of the military departments and the Office of the Secretary of Defense officials who report directly to such agency head—

"(1) to represent the agency in consultations with the Director or Administrator with respect to the development of Federal audiovisual policy and procurement procedures; and

"(2) to carry out the responsibilities of the agency under this chapter.

If more than one official is appointed for the military departments, the respective duties of the officials shall be clearly delineated.

"(c) Upon the request of the Administrator, the head of each Federal agency, or the official designated by such agency head under subsection (b), shall—

"(1) supply the Administrator with full and complete information relating to such agency's production, use, and maintenance of audiovisual material (including any planned production which has not been started on the date of the receipt of the request from the Administrator) and the amounts included in such agency's budget requests for any expenses attributable to the production, use, or maintenance of audiovisual material (including salaries, project expenses, and overhead); and

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"(2) within one year from the date of completion of any production of audiovisual material by such agency, transmit to the Office an evaluation report describing the success or failure of such production to fulfill the original objectives for such production.

"(d)(1) All information and reports received by the Administrator pursuant to subsection (c)(1) shall be compiled, published, and delivered by the Administrator to the Administrator of General Services who shall deposit such publications in the National Archives of the United States. The Administrator of General Services shall make such publications available to the public through the office of the National Archives generally referred to as the 'National Audiovisual Center'.

"(2) Evaluation reports prepared pursuant to a request of the Administrator under subsection (c)(2) shall be distributed only to the Office, the Administrator, the Director, and the appropriate committees of the Congress.

"§ 4006. Labor standards for employees; healthy and safe working conditions

"(a) No contract shall be entered into by the head of any agency with any producer (and no amount shall be paid under any such contract), unless such producer shall furnish adequate assurances to the Secretary of Labor that—

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"(1) each employee of such producer employed on any project or production which is financed in whole or in part by the United States will be paid, without subsequent deduction or rebate on any account, not less than the minimum compensation as determined by the Secretary of Labor to be the prevailing minimum compensation for individuals employed in similar activities with regard to the arts; and

"(2) no part of any project or production which is financed in whole or in part by the United States will be performed or engaged in under working conditions which are unsanitary, hazardous, or dangerous to the health and safety of any employee engaged in such project or production.

"(b) The Secretary of Labor shall prescribe such regulations and procedures as he may deem necessary or appropriate to carry out the requirements of this section. Such Secretary shall publish, for notice and comment, proposed regulations for implementing this section in the Federal Register within thirty days of the effective date of this chapter.

"§ 4007. Regulations

"The Administrator, pursuant to authority delegated by the Director, shall promulgate such regulations as may be necessary to carry out the purposes of this chapter.

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"§ 4008. Authorization of appropriations

"There are authorized to be appropriated for the fiscal year ending on September 30, 1984, and for each of the first five fiscal years after such fiscal year, such sums as may be necessary to implement and carry out the purposes and requirements of this chapter.".

(b) The table of chapters for such title is amended by adding at the end the following new item:

"40. Coordination of Federal Audiovisual Policy.".

SEC. 3. (a)(1) Subchapter I of chapter 5 of title 31, United States Code, is amended by adding at the end the following new section:

"§ 504. Office of Federal Audiovisual Policy

"The Office of Federal Audiovisual Policy, established under section 4003 of title 44, United States Code, is an office in the Office of Management and Budget.".

(2) The table of sections for such subchapter is amended by adding at the end the following new item:

"504. Office of Federal Audiovisual Policy.".

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"Administrator, Office of Federal Audiovisual Policy, Office of Management and Budget.".

(c) Any policy, regulation, or procedure of any agency relating to audiovisual material which is in effect on the date

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of the enactment of this Act shall continue in effect until directly superseded by a policy, regulation, or procedure promulgated by the Director of the Office of Management and Budget or the Administrator of the Office of Federal Audiovisual Policy.

(d) This Act shall take effect at the end of the thirty-day period beginning on the date of the enactment of this Act.

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Mr. ENGLISH. While few would disagree with the thrust and intent of this legislation, the reality is that the remaining legislative days are short in number. I am hopeful that this review of the legislation and Federal audiovisual policy will provide a basis for correction of problems that may exist.

[The prepared statements of Representatives Roybal, Waxman, and Berman follow:]

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Edward R. Roybal

EDWARD R. ROYBAL

STATEMENT BEFORE THE SUBCOMMITTEE ON GOV'T INFORMATION, JUSTICE AND AGRICULTURE REGARDING HR 3325, THE FEDERAL AUDIOVISUAL POLICY ACT

Mr. Chairman, I am very pleased to have this opportunity to testify on behalf of my bill, HR 3325, the Federal Audiovisual Policy Act.

I feel so strongly about the merits of this legislation that I have introduced a similar bill in every Congress since the 94th. There is wide agreement that the United States government should not be in the moviemaking business. It is generally acknowledged that the private audiovisual sector, in addition to having some of its unemployment problems alleviated by this bill, would do a better, more efficient and more cost-effective job on such productions. We all profess belief in the principle that the government should utilize the competitive incentives of the private enterprise system to provide the products and services necessary to support government functions. But when it comes to producing and distributing audiovisual products, what do we do? We spend several hundred million tax dollars to produce in-house films that are too often of poor quality and represent duplicative efforts.

How can we justify this enormous expenditure when the unemployment rate, excluding actors, in the theater and motion picture industry industry ranges between 40%-60% across the country? Why aren't we taking advantage of this wealth of talent and technical skills? What is the point of producing in-house programs that are of such poor quality that one television station representative remarked that if he were given a choice between running a government program or the color bar test, he would run the color bar test. I've also heard of

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a case in which a federal agency spent $125,000 to produce a film, and then lost track of it. There is no record of what happened to it or whether anyone actually saw it. I'm not saying my bill would solve all of these problems, but it would certainly be a step in the right direction.

HR 3325 requires the contracting out for production of audiovisual material. I am sure that there will be a hue and cry from certain agencies about classified material and national security, but my bill does set out restrictions on the kinds of audiovisual materials that could be contracted out, unless a private producer was able to acquire the necessary security clearance. So projects like defense training films containing classified material, or films produced in connection with criminal investigations could still be made in-house. Also, we recognize that there are certain fields of study and certain situations that do not lend themselves to contracting out. This bill excludes films used or produced for the purposes of scientific testing, research or development where circumstances prevent the use of the private sector OMB is given a great deal of discretion in this regard.

Specifically, HR 3325 establishes an Office of Federal Audiovisual Policy within the Office of Management and Budget. The Administrator of this office would be charged with developing a federal audiovisual policy and coordinating the audiovisual activities of federal agencies. This Office would disseminate information to the private sector and maintain a master list of producers qualified to participate in audiovisual work for the federal government. It is my belief that this Office, with responsibility for overseeing and coordinating federal audiovisual projects, will bring uniformity, efficiency and economy to

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a very important aspect of federal activity.

OMB itself has recognized the importance of this issue. In 1978, that agency issued Circular A-114, which encouraged the contracting-out of certain audiovisual activities. We did notice some positive results. Professional actors were now being used in government productions and the in-house processing of motion picture film was prohibited. However, some of the main objectives contained in the Circular and its supplemental bulletins were not achieved. For example, Policy Letter 78-5 included regulations to "establish a uniform government-wide system for contracting for motion picture production," and a later letter, 79-4, included regulations for video-tape productions. None of this has been accomplished.

In 1980, GAO stepped in to review the situation in response to complaints from several private sector producers who had applied for production contracts with the government. The investigation determined that certain sections of the OMB documents relating to audiovisual activities resulted in illegalities. Any further progress in this area was halted.

It is obvious that the agencies are going no further in improving the management of audiovisual activities, so it is important that we step in. I have substantially revised my bill to conform with the GAO findings, and I believe the time is right for its full consideration. I thank the Chairman and Members of this Subcommittee for recognizing the importance of this issue, and I urge them to take action in the interests of developing a responsible and economical national audiovisual policy.

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Congress of the United States
House of Representatives
Washington, D.C. 20515
HENRY A. WAXMAN
24th District, California

STATEMENT OF HENRY A. WAXMAN (D-CAL)

BEFORE THE SUBCOMMITTEE ON GOVERNMENT INFORMATION, JUSTICE, AND AGRICULTURE

H.R. 3325, THE FEDERAL AUDIOVISUAL POLICY ACT

Mr. Chairman, thank you for providing me with an opportunity to share my thoughts with the Sub-committee on a very important bill, H.R. 3325. Six years ago we both participated in this Subcommittee's hearings on similar legislation, and I commend you for pursuing the issue.

Since our last hearings there has been little improvement in the management of audiovisual activities by federal agencies. Indeed, today we are no closer to a coherent policy for the procurement, production, and distribution of federal audiovisual materials and services than we were in 1978.

Because the current system actually encourages federal agencies to produce their own films, millions of dollars are wasted in efforts that ultimately produce second-rate products. And in the process the film industry's already high unemployment rates are pushed upward. I can think of few more appropriate examples of misdirected policy resulting in wasted money and effort.

I am, of course, delighted that Rep. Roybal is again pushing for legislation that adds commonsense and order to this system. Under H.R. 3325, federal audiovisual needs would be efficiently managed by an Office of Federal Audiovisual Policy. This Office would be required to competently arrange contracts with outside sources for audiovisual projects. It is important to note, however, that the bill gives the

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Office's Administrator wide discretion in exempting any activities that could pose a threat to our national security or impede other activities.

This simple proposal will end the tremendous waste our system now endures. It will bring new jobs to the film industry and, perhaps most importantly, improve the quality of audiovisual materials.

Mr. Chairman, today's hearing will be a valuable supplement to the exhaustive record hearing record developed during the 95th Congress. I hope it helps move H.R. 3325 through the legislative process so that we can put an end to one of the most wasteful uses of taxpayers dollars.

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STATEMENT OF

REP. HOWARD L. BERMAN

on behalf of

HR 3325

SUBCOMMITTEE ON GOVERNMENT

INFORMATION, JUSTICE AND AGRICULTURE

JUNE 29, 1984

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I wish to thank the subcommittee for convening this hearing today to examine the problems with federal audio-visual policy. As a representative from Los Angeles with a large number of constituents involved in the film and recording industries, I am particularly concerned about how that policy contributes to unemployment in the creative community. I am a cosponsor and strong supporter of HR 3325, the Federal Audio-Visual Policy Act, introduced my my colleague Mr. Ed Roybal, and I urge the subcommittee to give it favorable consideration. Until the federal government puts an end to the practice of competing with private industry in the production of audio-visual materials, constituents like mine will continue to be denied innumerable job opportunities.

You are already familiar with the provisions of HR 3325. Briefly, it would establish within the Office of Management and Budget an Office of Federal Audio-Visual Policy, which would assist in development of a coherent policy in this area. This would greatly aid in eliminating costly duplication between agencies, and provide to private sector producers and interested parties centralized information on federal audio-visual needs. All federal audio-visual materials to be produced would be contracted out through this office, with appropriate security restrictions where necessary.

America's pool of creative talent is unrivaled. It not only provides an important source of revenue to this country, but also reflects the diversity of our culture. I do not believe

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it is in our national interest to undercut this industry by continuing a policy of allowing the federal government to produce "in house" audio-visual materials that could be produced by the private sector at less cost and with better results. With all the other goods and services that the federal government contracts out for, it's a wonder that it still reserves to itself a function that is not strictly governmental, and for which there exists a wealth of talent eager to do the job.

I urge the subcommittee to take the necessary steps to get the federal government out of the movie business. HR 3325 is the answer to this problem, and I stand ready to offer whatever help I can in enacting it into law.

I thank the subcommittee for its time.

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Mr. ENGLISH. I want to welcome the witnesses who will be testifying. We will have two panels this morning, as well as a representative from the Office of Management and Budget. On the first panel will be Sam Robert, who is the executive coordinator of the New York Council of Motion Picture and Television Unions in New York.

Mr. Robert, if you will come forward. Also on the panel we have Mr. James B. Faichney, chairman of the Government Audiovisual Committee and Directors Guild of America from Monson, MA. Mr. Faichney, if you will come forward please, I want to welcome you both. If you gentlemen would care to summarize your testimony, without objection your full written testimony will be made a part of the record.

STATEMENT OF SAM ROBERT, EXECUTIVE COORDINATOR, NEW YORK COUNCIL OF MOTION PICTURE AND TELEVISION UNIONS, NEW YORK, NY

Mr. ROBERT. Thank you very much. You have already introduced me. I just wanted to tell you that the organization I represent is an umbrella organization of 15 unions and guilds made up of the creative talent of technicians and crafts people who supply professional labor and creativity arts in making audiovisual materials in the private sector.

I just want to thank you and the committee and your staff for giving us the opportunity to bring this out into the public. Now you asked if I could just summarize this?

Mr. ENGLISH. If you would care to do so, Mr. Robert, feel free to.

Mr. ROBERT. I would but I would have to improvise a summary.

Mr. ENGLISH. If you feel more comfortable in reading the testimony, please proceed.

Mr. ROBERT. It is not too long. I say in order not to be redundant I shall only underline statements already submitted by the Directors Guild of America, the Hollywood Film Council, the International Alliance of Stage Employees, and other members of the Joint Management-Labor Committee who are here today.

In the letter I sent you last October urging you to arrange this hearing, gives the essence of our arguments for the passage of H.R. 3325. To quote from the letter, "We wish to emphatically restate the purposes of the act, designed to encourage the production of higher quality Government audiovisual materials by experienced private sector companies employing qualified technicians and talent, so as to eliminate the costly duplication and inefficiency characteristic of current in-house production units of Federal agencies which are competitive with free enterprise.

"We are confident that you agree that the Government should not be competing with the private sector and doing work in-house that can be and should be done professionally resulting in a better and less costly product and needed employment."

The excellent and well prepared statement of the Hollywood Council, our counterpart on the west coast, with which we fully concur, spells out our viewpoint in more specific detail. William Howard, president of the council was unable to be here in person. I

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am going to read select portions from his statement which applies to pertinent reasons for considering the legislation.

"For at least a decade the officers and delegates of the Hollywood Film Council have recognized the need for modification of the Federal Government's policies and procedures with regard to the production, procurement, and distribution of audiovisual materials utilized for education, training, information, public service announcements, and paid television advertising by Federal departments and agencies."

It has been and is very difficult for the many thousands of members of the film council's affiliated guilds and unions suffering from acute unemployment ranging from 40 percent to 60 percent in recent years, to comprehend why the Federal Government continues to allow its department and agencies to compete with the private sector in the audiovisual field, particularly when several successive administrations have agreed that in most cases audiovisual materials are produced and distributed better and cheaper outside the Government.

The officers and delegates of the Hollywood Film Council are convinced that the public interest as a whole as well as the interest of our guild and union members and their families will best be served by utilizing the competitive incentives of the private enterprise system to provide the audiovisual materials necessary to support Government functions.

The Hollywood Council statement cites a key section of the bill dealing with labor standards for employees. This provision requires "that any contracting producer supplying audiovisual material to any Federal agency must give the Secretary of Labor adequate assurances that its employees will be paid prevailing minimum compensation for similar activities in the arts and afforded health and safe working conditions * * *"

This provision is essential in order to have the audiovisual materials done by professionals in the private sector. Mr. Chairman, as we all know the creation of audiovisual materials is not a mechanical assembly line process. It is a creative art. The labor standards are essential so that the employer is able to obtain the professionals, the writers, director, technicians, artists, performers, to create and produce efficiently and effectively a satisfactory end product to fulfill the purposes the Government agencies seek in the audiovisual materials.

Mr. Chairman and members of the committee, we hope and trust that the reasons presented here today will cause you to give favorable consideration and action for H.R. 3325, the Federal Audiovisual Policy Act. Thank you again for your interest and cooperation.

Mr. ENGLISH. Thank you very much, Mr. Robert. I appreciate that very much.

Mr. Faichney.

STATEMENT OF JAMES B. FAICHNEY, CHAIRMAN, GOVERNMENT AUDIOVISUAL COMMITTEE, DIRECTORS GUILD OF AMERICA, MONSON, MA

Mr. FAICHNEY. Mr. Chairman, counsel, you introduced me as being chairman of the Government Audiovisual Committee of the

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Directors Guild of America, which is true. But I also am one of the coordinators, and there are four of us, of the Joint Management Labor Committee for Government Audiovisual Policy. The other coordinators, along with myself, are Mr. Robert here, John Giles, a vice president of the Motion Picture Association, and Steve D'Inzillo, vice president of the International Alliance of Theatric and Stage Employees.

Mr. D'Inzillo planned to be here, but couldn't make it because of the change of dates in this hearing. He is tied up in New York. He would like to have his testimony inserted into the record and he has asked me if I would read several paragraphs for him, which if there is no objection from you, I will do.

Mr. ENGLISH. Without objections, full and complete written testimony will be made part of the record.

Mr. FAICHNEY. Fine; he states the need and justification for the Congress to enact such remedial legislation as H.R. 3325 is amply documented. Indeed the record of Federal procurement and production of audiovisual materials is so replete with evidence of extreme costly waste, duplication and inefficiency that it virtually mandates Congress to pass this bill.

Congress and the American people should no longer accept the endless Government assurances that the charges of vast waste, duplication and inefficiency are not true. The performance has been meaningless. Attached is a 30-year chronological listing of major studies, findings and proposals, all to no avail.

Considering the documented accumulative waste of billions increasing yearly because of growing equipment inventory and ever present inefficiency and duplication, enactment of such legislation is long overdue, at least 17 years overdue. Ever since 1967, when the Office of Management and Budget issued Circular A-76 based partly on studies made in 1954 and 1956.

Consistent protests from both management and labor in the motion picture and television industry helped conceive A-76. OMB thus sought to reassure the motion picture industry and other industries that the Government adhered to good public policy by stating in A-76 that "it is the fundamental concept that the Government should generally perform only those functions which are governmental in nature and utilize private sector to provide services necessary to support those functions."

This most important cornerstone of Federal public policy has never been substantially implemented. The only result of the late great flurry of several years of activity are the present most inadequate bidding system and latest directive, a rewrite of A-76. The built-in incentives for each Federal agencies bureaucracy to keep things as they are will do just that; keep things as they are.

Possibilities of widespread use of Government equipment, particularly videotape, for personal use, have not been adequately investigated. Federal deficits are at astronomical levels and taxpayers are already sorely overburdened. It is unconscionable for Congress to reduce spending by voting cuts in social welfare programs, increase taxes on an already overtaxed people and simultaneously decline to take this definitive step.

It will save hundreds of millions of dollars annually. It will bring the Government quality production, eliminating among other

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things, much in-house production that never sees the light of day. In the interest of cost-effective practices, in the interest of good public policy and the light of past experience, common sense dictates adoption of H.R. 3325.

That closes the excerpts from Mr. D'Inzillo's statement. If I may, I would like to pick up on my statement.

[The prepared statement of Mr. D'Inzillo follows:]

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STEVE D'INZILLO
INTERNATIONAL VICE PRESIDENT
International Alliance of Theatrical Stage Employes and
Moving Picture Machine Operators of the United States and Canada
P.O. Box 1252 Desert Hot Springs, CA. 92240
Telephone: (714) 329-0448

Statement by Steve D'Inzillo to the Subcommittee on Government Information, Justice, and Agriculture of the Committee on Government Operations

Mr. Glenn English
Government Information, Justice,and Agriculture
Subcommittee of the
Committee on Government operations
B-349-C Rayburn House Office Building
Washington, D.C. 20515

June 26, 198

My name is Steve D'Inzillo, a Vice President of the International Alliance of Theatrical Stage Employers and Moving Picture Operators of the United States and Canada. We are the largest union in the motion picture industry. Excluding the talent guilds we represent all classifications in motion picture production: Camerapersons, art directors, set designers, screen cartoonists, laboratory technicians, grips, props, electricians, carpenters, etc.

I wish to thank you, Chairman English, and members of the committee for this opportunity to testify in favor of HR3325, the Federal Audio Visual Policy Act.

The need and justification for the Congress to enact such remedial legislation is amply documented. Indeed the record of federal procurement and production of audio visual materials is so replete with evidences of extremely costly waste, duplication and inefficiency that it virtually mandates Congress to pass this Bill. Congress and the American people should no longer accept the endless government assurances that the charges of vast waste, duplication and inefficiency are not true; or the equally endless promises of correction and improvement. The performance has been meaningless. Attached is a thirty (30) year chronological listing of major studies, findings and proposals - all to no avail.

The objective of the Union I represent, as itis of the Joint Management-Labor Committee of the Motion Picture Industry, continues to be to restore accepted public policy by using private industry for federal production and procurement of audio visual materials and to cease wasteful use of taxpayers money.

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Mr. Glenn English, continued

Considering the documented accumulated waste of billions, increasing yearly because of growing equipment inventory and ever present inefficiency and duplication, the enactment of such legislation is long overdue. At least seventeen years overdue, ever since 1967 when the Office of Management and Budget issued Circular A-76, based partly on studies made in 1954 and 1965. Consistant protests from both management and labor in the motion picture and television industries helped conceive A-76. OMB thus sought to reassure the motion picture industry that the Government adhered to good public policy by stating in A-76 that: "(it is) the fundamental concept that the Government should generally perform only those functions which are governmental in nature and should utilize the competitive incentives of the private enterprise system to provide the products and services which are necessary to support governmental functions."

This most appropriate conerstone of federal public policy has never been substantively implemented. The best efforts have been lip service and tokenism, the only result of the great flurry of several years of activity are the present most inadequate bidding system and the latest directive - a rewrite of A-76.

The built-in incentives for each federal agency's bureaucracy to keep things as they are will do just that: keep things as they are. Possibilities of widespread use of government equipment, particularly video tape, for personal use have not been adequately investigated.

Many administrative actions by the Office of Federal Procurement Policy, no matter how well intended, have not meaningfully reduced the vast waste, duplication and inferior quality of in-house production or costlier "low-bid" procurements. The years have proven that each agency's breaucracy has managed to largely bypass, circumvent or simply ignore such administrative actions, just as they have done with other major directives such as OMB Circular A-114 or Policy letter 78-5, or the currently modified A-76.

Over seventeen years of experience (since A-76) show that the only hope to eliminate waste, duplication and inferior product is to eliminate the causes. That hope can only come about with the establishment of an Office of Federal Audio Visual Policy as provided for in HR3325. The federal agencies procuring and/or producing audio-visual materials will continue the vast waste of money, unless this proposed remedial action is taken by Congress.

I do not want to repeat here the specifics presented to members of Congress, in brochures in 1978 and 1979, by the Joint Management-Labor Committee on Government Audio-Visual Policy. Those brochures contained unchallenged specific excerpts from the year long White House commissioned study (the Lissitt

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Mr. Glenn English, continued

Report) released in 1978. If members of this Committee are unfamiliar with those brochures or with the Lissett Report, I will be glad to furnish them.

With federal plant and equipment for production of audio-visual materials at well over two billion dollars, the use of over 20,000 individuals in federal Audio Visual production, and the federal government being the biggest single producer of audio visual materials in the United States, it would seem than even the blind can see that a mockery is being made of the policy statement in A-76 "...the competitive incentives of the private enterprise system (be used) to provide the products and services necessary to support governmental functions."

Federal deficits are at astronomical levels, and taxpayers are already sorely overburdened. It is unconscionable for Congress to reduce spending by voting cuts in social welfare programs, increase taxes on an already overtaxed people and simultaneously decline to take this definitive step. It will save hundreds of millions of dollars annually. It will bring the government quality production, eliminating, among other ills, much in-house production that never sees the light of day. In the interest of cost effective practices, in the interest of good public policy, in the light of past experience, common sense dictates the adoption of HR3325, the Federal Audio Visual Policy Act.

My organization requests we be informed of the action or intent of this Committee. May I please be so advised.

Sincerely,

Steve D'Inzillo

Enclosure: Attachment

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June 1984

Attachment to Statement of Steve D'Inzillo Re: HR 3329

Re: Federal Procurement and Production of Audio-Visual Materials

A thirty year chronology of fruitless efforts:

1954 JOINT ARMY-NAVY-AIRFORCE FILM SURVEY COMMITTEE - a report '...with particular attention to savings which may occur to the Government...'

1965 THE FEDERAL INTER-AGENCY COMMITTEE - reported on the lack of a centralized information point on aural and visual materials produced by the Federal Government.

1967 DEPARTMENT OF DEFENSE STUDY GROUP - investigates DoD audio-visual activities.

1972 HOUSE APPROPRIATIONS COMMITTEE investigates audio-visual activities of the Department of Defense.

1972 THE UNITED STATES GOVERNMENT AND THE AMERICAN RAIDO-TELEVISION-MOTION PICTURE INDUSTRY, an investigation by Congressman Barry Goldwater, Jr., et al.

1973 HR 1090 - the Roybal Bill re prevailing wages in the audio-visual contracting and procurement policy of government.

1973 HR 2675 - the Goldwater, Jr. Bill re audio-visual production and procurement.

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1973 GSA REPORT ON ADUIO-VISUAL CONTRACTING AND PROCUREMENT.

1974 OFFICE OF TELECOMMUNICATIONS POLICY REPORT ON AUDIO-VISUAL COMMUNICATIONS IN THE FEDERAL COVERNMENT.

1974 DEPARTMENT OF DEFENSE AUDIO-VISUAL MANAGEMENT TASK FORCE REPORT.

1975 HR 5041 - the Burton (Philip) Bill re prevailing wages in Federal audio-visual contracting.

1975 DOLLARS AND SENSE - a report to the Vice President on Government Audio-Visual Management, Contracting and Procurement.

1976 INSTRUCTIONAL TELEVISION - report and recommendations for use in Federal civilian training (U.S.C.S.C.).

1976 POSITION PAPERS - selected papers on industry position re Government audio-visual activities supplied to Carter/Mondale Transition team by Directors Guild of America/Conference of Motion Picture and Television Unions.

1977 HR 9657 - the Roybal Bill introduced. Written and approved by management and labor representatives of the nation-wide audio-visual industry.

1978 LISSITT REPORT released by White House on Federal audi-visual activities.

1978 OMB issues Circular A-114 regarding audio-visual activities in Government.

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1978 FEDERAL MEDIA MANAGERS SEMINAR regarding affect of Circular A-114 on Government in-house production.

1978 BURTON (John) Subcommittee hearings on Federal Audio-Visual problems.

1979 HR 4627, the Roybal Bill - a revised version of the 95th Congress Bill submitted with Joint Management-Labor Committee endorsement.

1984 HR 3325 - a Federal Aduio-Visual Policy Act.

Mr. ENGLISH. Please do, Mr. Faichney.

Mr. FAICHNEY. We thank the chairman for having us here today. We know it has been a rough time, but we do hope we will be able to supply some information that is new and be helpful in coming to some decisions. The chairman of the committee, you, Mr. English, and its counsel have received statements from the Chicago coalition, representing audiovisual production companies in the mid-Western area of our Nation and from the Hollywood Film Council that represents all industry labor organizations in the Western section of the Nation.

You have, I believe, a statement from Jack Valenti of the Motion Picture Association. If you do not have it yet, it will be forthcoming. You will be hearing from other representatives of production and labor organizations in our industry, here today.

[Mr. Valenti's statement is printed in appendix.]

Mr. FAICHNEY. The producers, the talent, and the technicians of our industry have worked for these hearings on the Federal Audiovisual Policy Act, H.R. 3325, for many months. We hope that today's hearings will result in positive action being taken by the Congress.

In my statement I go into detail with regard to what audiovisual material is since we have been advised recently that a number of Members of Congress do not know what audiovisual material is. So we plan to start a new campaign to educate the Congress in this area. But I will not go through my lengthy statement as long as it goes in the record.

Mr. ENGLISH. Congress will appreciate any education you can give it.

Mr. FAICHNEY. There seems to be a slight misunderstanding of what is a producer. In my abridged dictionary a producer can be the owner of or an employee of a production company. The producers—I will read this:

> The producers' main duties are to meld the creative abilities of all the talent employed on a given production. He not only must be a business man and control production expenditures, but also have enough creativity to have the talent look to him for ideas and guidance and have the ability to select the best talent available for the production under consideration, whether television program, theatrical film, educational or informational materials.

I might add that this legislation establishes procedures for producer selection that guarantees as much as anything can be guar-

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anteed, that the best will be available for Government production. Industrial, corporate, and Government audiovisual presentations are produced primarily to educate, train, and inform.

These productions may be any of those just described or any combination, resulting in multimedia productions. All are produced to convey information. This is a broader interpretation than that accepted currently by the Government which limits the definition of audiovisual production only to motion picture film and videotape productions.

Several years ago, from facts available within Government, from Mr. John McLear who we feel does a hell-of-a-job—so we do appreciate some of the work some of the people in Government are doing—we were able to pinpoint a portion of operations and expenditures of Government in its audiovisual activities: An average of $100 to $500 million spent annually for direct funding of production activities; a minimum of $500 million for civil service salaries, i.e., 20,000 personnel at an average salary of $25,000 per annum; $2 billion and more, equivalent to Metro-Goldwyn-Mayer to the x quotient, in equipment inventory; and 8,416,689 square feet of office and studio space, equivalent to 3.86 times the rental space available in New York's Empire State Building.

We think that is a hell of a lot of room to make pictures. We feel that over the years—and I won't go into detail on this with regard to A–76, but we feel that each time that it gets close to being implemented, someone comes along and decided it needs to be revised. It has been revised several times. It has never been implemented as far as we have been able to find out. We feel each of these continuing revisions have emasculated the original policy which was to have Government services and products for the Government produced by the private sector.

Our foreheads have collided with the bureaucratic brick wall, built to prevent intruders like the members of our industry and Members of the Congress and members of the executive branch from seeing what is going on in the governmental bureaucracy.

At a recent Senate hearing, earlier this year, Mr. Hugh Witt, the first administrator of the Office of Federal Procurement Policy, made these remarks on Government competition with the private sector which are relevant to our discussion here today:

> Mr. Chairman: I am a veteran of the A–76 wars. I've heard every argument ever invented to keep from moving ahead on contracting out, including the so-called danger to national security. If you or I discuss the subject with just about anyone on a one-on-one basis, we end up with the same answer; that is, the Government should not be involved in activities that can be performed by private enterprise.
>
> We have here a policy that has been reaffirmed by Republican and Democratic leadership over the years, so, the logical question is: "Why hasn't this been implemented and enforced throughout the Government?"

Mr. Witt's successor in the administration of OFPP, Lester Fettig, told the Congress that: "* * * all of these problems have been taken care of by Circular A–76 and a new Circular A–114 and an OMB Bulletin 78–5." After putting out Circular A–144, Mr. Fettig said:

> We cannot put out special circulars to cover each and every activity. However, we do think audio-visual is important enough to put out a special circular on it * * *. We intend to remain thoroughly involved in oversight.

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Shortly after Mr. Fettig's assurance that OFPP would remain thoroughly involved in oversight, a new OFPP administrator was appointed by a new administration. Mr. Donald Sowle's spokespersons advised an industry group that the responsibility for supervision and compliance of contract operations now rests with the Inspector General's of the various departments and agencies.

"There is no oversight of in-house production operations and industry's role should be to monitor agency implementation of Circular A-76." If Government cannot monitor itself, how does it expect the private sector to monitor Government?

We were further advised that the fundamental objection by OMB and OFPP against the industry proposed legislation was that they did not want the problem elevated to the highest level of the administation and that the newly revised Circular A-76 would take care of all problems. Perhaps it should, but it has not.

Mr. Sowle also testified before the same Senate committee as Mr. Witt. I quote:

> Over the past 50 years or more, our Government has taken on the responsibility to provide more and more commercial goods and services that could be provided by the private sector. We need to reverse this trend and give the private sector an opportunity to contract for Gove nment work * * *.
>
> I believe it would be economically beneficial in the long run if the Federal Government would abandon its role as a major provider of its own commercial type products and services, and let our free enterprise system simply take over where competition is assured * * *.

That is from the current administrator of OFPP. He did make some qualifications in his testimony, but we believe it is the thought that counts.

At this moment, one private sector producer has been advised that a Navy classified film project, to be updated, will be produced in-house, although his company had produced the earlier classified film and that the Naval office involved wanted him to update the project since his original film had been so successful.

Instead, the largest in-house production unit within Government, DOD's Norton Air Force Base facility will produce it. Norton operates under a Government-owned contractor operated contract with a company that has no prior audio-visual production experience. This G.O.C.O. contractor has subcontracted to a company headed by the former Air Force colonel, whose official duties, prior to his retirement was Chief of Production at Norton AFB.

This may be service induced nepotism. We are not quite sure. Since preparing this statement, we have been advised that the same prime contractor has received another G.O.C.O. contract at Eglin AFB for all audio-visual production. We do not know if they will or have subcontracted to another company.

The Comptroller General of the United States, submitting a make or buy report to the Congress has written: "* * *without a firm national policy fully endorsed and supported by the Congress* * *confusion of this A-76 program will be a repetition of the past * * *confusion, controversy and ineffective implementation* * *." which is the reason the motion picture and television industry is represented here today. We believe that congressional action is necessary to eliminate Government competition with private enterprise.

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We believe the passage of this Federal Audiovisual Policy Act, H.R. 3325, or similar legislation, will clarify, in at least one area, the confusion, controversy and ineffective implementation referred to by the Comptroller General. We are aware that the following weeks will be busy ones for you all with unfinished business of the Congress, with the political conventions, with the campaign period and with the fall elections.

We also believe that this legislation cannot be shunted aside, as it affects all those items which now are congressional priorities. This legislation, when it becomes Public Law, will transfer Government in-house production of audiovisual materials to the private sector thereby cutting rates of unemployment in our industry, which run at this time up to 60 percent, upgrading the quality of product which Government receives for the tax moneys expended—we are professionals; affecting the current Government deficit by lessening salary and equipment expenditures—expenditures which our industry believes to be part of the $3 billion question which we brought before the Congress a number of years ago, and eliminating the costs of maintaining a major portion of that 8,416,689 square feet of office and studio space.

I would, finally, request if at all possible that the committee counsel be authorized to adivse the Joint Management Labor Committee, either through Sam Robert or myself, the continuing steps that will be taken to have this bill forwarded to the floor of the House for action. For if there is no follow through on these hearings, then you and I and all of us are living through an exercise of futility and frustration and it has been a waste of all our time.

In closing I would like to remind the subcommittee that the following Members of Congress, Cardiss Collins, Dante Fascell, Don Fuqua, Raymond McGrath, Ted Weiss, Henry Waxman, all members of the full Committee on Government Operations, have supported this type of legislation and as evidenced by the statements made and submitted here today their constituents are interested in the passage of this bill. I will be available to answer any questions or just close my tent and leave.

[The prepared statement of Mr. Faichney follows:]

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Directors Guild of America, Inc.

REVISED STATEMENT

Statement by James B. Faichney
Directors Guild of America
before the
House sub-Committee on Government Information,
Justice and Agriculture

June 28, 1984

Subject: Government competition with the
Private sector producer of Audio-
Visual materials...H. R. 3325 -
The Federal Audio-Visual Policy Act.

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Directors Guild of America, Inc.

Mr. Chairman, other Members of the Congress, Committee Staff members and others, it is a pleasure to be here today. My name is Jim Paichney and I am Chairman of the Directors Guild of America Government Audio-Visual Committee and one of the Coordinators of the Motion Picture and Television Industry's Joint Management - Labor Committee on Government Audio-Visual Policy. I also represent here today the Writers Guild of America.

The Chairman of this Committee and its Counsel have received statements from the Chicago Coalition, representing audio-visual production companies in the mid-Western area of our nation and from the Hollywood Film Council that represents all industry labor organizations in the Western section of the Nation , as well as from the Motion Picture Association representing the major production companies. You will be hearing from (have heard from) other representatives of production and labor organizations in our industry, here today.

The producers, the talent, and the technicians of our industry have worked for these hearings on the Federal Audio-Visual Policy Act, H.R. 3325, for many months. We hope that today's hearings will result in positive action being taken by the Congress.

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Federal Audio-Visual materials — what are they ???
The legislation we are discussing here today describes them as follows:

§ 4002...."(5) the term 'audiovisual material' means any recording of any sight or sound without regard to the method of production of such recording or the form of the reproduction of the sound or sight recorded, including motion picture films, slide films, filmstrips, video tape recordings, video disc recordings, audio tape recordings, audio disc recordings, and the product of any other means, method or device (now known or yet to be invented) for producing or reproducing sight or sound, but such term does not include any product of any reproduction (by any method) of documents, correspondence, or other pieces of paper;

The Bill goes on to define 'audio-visual production' and the individuals involved in such production.

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Industrial, corporate and government audio-visual presentations are produced, primarily, to educate, to train, to inform. These productions may be any of those just described or any combination, resulting in multi-media productions. All are produced to convey information.

This is a broader interpretation than that accepted currently by the government which limits the definition only to motion picture film and videotape productions.

Several years ago, from facts available within government, our industry was able to pin-point a portion of operations and expenditures of government in its audio-visual activities.

An average of $100 to $500 million spent annually for direct funding of production activities;
A minimum of $500 million for civil service salaries, ie twenty thousand personnel at an average salary of $25,000.oo per annum;
$2 billion and more, equivalent to Metro-Goldwyn-Mayer to the X-quotient, in equipment inventory;
and
Eight million, 416 thousand, 689 square feet of office and studio space — equivalent to 3.86 times the rental space available in New York's Empire State building.

These facts and figures became our $ billion dollar question.

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We know that Federal monies can be saved and the quality of government audio-visual up-graded if the professionals in our industry are allowed to provide the goods and services to support government's audio-visual needs. We also believe that government should not be allowed to compete with the private enterprise system.

Almost thirty years ago the thought was first promulgated that

> "Government should generally perform only those functions which are governmental in nature and should utilize the competitive incentives of the private enterprise system to provide the products and services which are necessary to support governmental functions"

Over the years, this thought has been reiterated and carried forward into various management circulars, culminating in the now, often revised, OMB Circular A-76, as the policy of the Federal Government. — Policy - maybe — Actuality - NO !!

Each revision of the policy emasculated the principle...and each revision was begun at the time that the previous revision could no longer be ignored by government employees who build the 'in-house' civil service bureaucracy. Last year, there was the Reagan revision, calling for another review after another five years, which will forestall any positive action now, if the evidence of the past is any criteria.

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The taxpayers of our industry, represented here today by spokesmen from both management and labor, have been battling to achieve implementation of that doctrine for more than a decade. Our foreheads have collided with the bureaucratic brick wall, built to prevent 'intruders' like the members of our industry and Members of the Congress, and members of the Executive Branch from seeing what is going on in the governmental bureaucracy.

One of the things that has been going on has been the cutting off of more and..... more work from the private sector motion picture and television producer, despite assurances that the policies of Circular A-76 are being complied with.

At a recent Senate hearing, earlier this year, Mr. Hugh Witt, the first Administrator of the Office of Federal Procurement Policy, made these remarks on government competition with the private sector which are relevant to our discussion here today:

> "Mr. Chairman....I'm a veteran of the A-76 wars. I've heard every argument ever invented to keep from moving ahead on contracting-out, including the so-called danger to national security.
>
> "If you or I discuss the subject with just about anyone on a one on one basis, we end up with the same answer: that is the government should not be involved in activities that can be performed by private enterprise.

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"We have here a policy that has been re-affirmed by Republican and Democratic leadership over the years ....so, the logical question is: "Why hasn't this been implemented and enforced throughout the government ??"

(Several copies of Mr. Witt's complete Statement before the Senate Committee on Government Affairs have been supplied to this Sub-Committee Counsel, Mr. Leo Jardot.)

Mr. Witt's successor in the administration of OFPP, Lester Pettig, told the Congress that: "...all of these problems have been taken care of(by Circular A-76 and a new Circular A-114 and an OMB Bulletin 78-5). After putting out Circular A-114, Mr. Pettig said :" We cannot put out special circulars to cover each and every activity. However, we do think audio-visual is important enough to put out a special circular on it...We intend to remain thoroughly involved in oversight. (Page 6/11, Burton hearings, 9/21/78).

Shortly after Mr. Pettig's assurance that OFPP would remain thoroughly involved in oversight, a new OFPP Administrator was appointed by a new Administration. Mr. Donald Sowle's spokespersons (members of the continuing bureaucracy) advised an industry group that the "responsibility for supervision and

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compliance of contract operations now rests with the Inspector Generals of the various departments and agencies. There is no oversight of in-house production operations (and) industry's role should be to monitor agency implementation of Circular A-76."

If government cannot monitor itself, how can industry possibly obtain the information needed for such monitoring ?

We were further advised that the 'fundamental objection' by OMB and OFPP against the industry proposed legislation was that they did not want the "problem" elevated to the highest level of the Administration and that the newly revised Circular A-76 would take care of all problems.

Perhaps it should....but it has not.

Mr. Sowle also testified before the same Senate Committee as Mr. Witt. I quote, " Over the past 50 years or more, our Government has taken on the responsibility to provide more and more commercial goods and services that could be provided by the private sector. We need to reverse this trend and give the private sector an opportunity to contract for Government work.....

" I believe it would be economically beneficial in the long run if the Federal Government would abandon its role as a major provider of its own commercial type products and services, and let our free enterprise system simply take over where competition is assured...."

Mr. Sowle did make some qualifications to these remarks in his testimony before the Senate Committee, but I believe it is the thought that counts.

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At this moment, one private sector producer has been advised that a Navy classified film project, to be up-dated, will be produced in-house, although his company had produced the earlier classified film...and that the Naval office involved wanted him to up-date the project since his original film had been so successful.

Instead, the largest in-house production unit within government, DoD's Norton Air Force Base facility will produce it. Norton operates under a Government owned - contractor operated contract with a company that has no prior audio-visual production experience.

This G.O.C.O. contractor has sub-contracted to a company headed by the former Air Force Colonel, whose official duties, prior to his retirement, was Chief of Production at Norton AFB.

Since preparing this statement, we have been advised that the same prime contractor has received another G.O.C.O. contract at Eglin AFB for all audio-visual production.

The Comptroller General of the United States, submitting a "Make or Buy" Report to the Congress has written :

> "...without a firm national policy, fully endorsed and supported by the Congress... the future of this (A-76) program will be a repetition of the past...confusion, controversy and ineffective implementation.."

which is the reason the motion picture and television industry is represented here today. We believe that Congressional action is necessary to eliminate government competition with private enterprise. We believe the passage of this Federal Audio-Visual Policy Act, H.R. 3325, or similar legislation, will clarify, in at least one area, the confusion, controversy and ineffective implementation referred to by the Comptroller General.

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We are aware that the following weeks will be busy ones for you all, with unfinished business of the Congress, with the political conventions, with the campaign period and with the fall elections.

We also believe that this legislation cannot be shunted aside, as it affects all those items which now are Congressional priorities. This legislation, when it becomes Public Law, will transfer Government in-house production of audio-visual materials to the private sector thereby cutting rates of unemployment in our industry; upgrading the quality of product which Government receives for the tax monies expended; affecting the current Government deficit by lessening salary and equipment expenditures — expenditures which our industry believes to be part of the 3 billion dollar question; and eliminating the costs of maintaining a major portion of that eight million, 416 thousand, 689 square feet of office and studio space.

I would, finally, request, if at all possible, that the Committee Counsel be authorized to advise the Joint Management-Labor Committee, either through Sam Robert or myself, the continuing steps that will be taken to have this Bill forwarded to the floor of the House for action.

I will be pleased to answer any questions.

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Mr. ENGLISH. Thank you very much, Mr. Faichney. Mr. Faichney, what effort is the Federal Government making to solicit your industry's advice and expertise in improving the procurement system?

Mr. FAICHNEY. There was a period prior to the publication of A-114 when we felt, we may not have been really doing it, but we felt we were working very closely with various Government departments and trying to give them our view and our picture. The last 6 years, since 1978 until today, there has been very little contact with Government in the areas of their asking what industry was really interested in doing and how to go about doing it.

We think this is one of the reasons we are unable to get current information on some of those figures I quoted. I am sure if a really honest figure was available, you would find some of the figures I quoted were wrong. But we have no place to go now. The National Audiovisual Center is supposedly and does submit a report every year, but the facts and information are not complete. They do the best they can, but what they get is not the best.

Mr. ENGLISH. Mr. Robert, in 1981, President Reagan ordered a moratorium on production of audiovisual materials resulting in tightened controls. In your opinion, has this led to a reduction in Government spending in this area and improvement in the quality of material being produced?

Mr. ROBERT. Well frankly, just as Mr. Faichney also is uncertain about some of the developments, we have not been able to get any factual information on the total amount of work being done. I don't know if a study came out with a report, but we have not received that report. So that during this period, Mr. English, we are rather unsure and uninformed on what has been happening.

Mr. FAICHNEY. If I may, Mr. Chairman, we do know that one example I cited of a private sector producer who is not being allowed to upgrade a picture which he made because of operations within Government. The Naval special weapons project, I think, it is in New London, is the one that wants to contract this to him.

He was told by the Department of Defense Audiovisual Agency that this could not be let out on contract because the Navy was not allowed to let anything out to contract. This is just hearsay on my part, because they had not fulfilled all the OMB requirements that went into effect when the moratorium was placed in effect.

There were certain procedures which various Government agencies were suppose to do before they could get back on track and do any of the audiovisual production they might have lined up ready to go.

Mr. ROBERT. You probably know that as a result of our efforts over the years, the DOD created a qualified producers list. And all the contracting went through that Department. We are not sure what has happened with that. Mr. Zigler is here today. He may give us some information, but we would like to be updated on what has happened since the moratorium and what they did find in their studies.

Mr. ENGLISH. It is my understanding OMB is currently revising guidelines for Federal audiovisual policy. What recommenations would you make as far as that policy is concerned, Mr. Robert? I will let you start off on that.

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Mr. ROBERT. I would like you to answer that.

Mr. FAICHNEY. Very simply I would suggest they read H.R. 3325.

Mr. ENGLISH. Mr. Robert, do you concur?

Mr. ROBERT. Well, I think so, yes.

Mr. ENGLISH. OK. Well, I want to thank you both very much for your testimony. We appreciate it. It has been very helpful to us. I will say that we have a statement here from Congressman Howard Berman who would like to have this included in the record.

Without objection that will be made a part of the record as well. Thank you very much, gentlemen.

[See p. 23.]

Mr. FAICHNEY. Thank you.

Mr. ENGLISH. Our next panel is William G. Williams of Independent Media Producers of Washington, DC and Mr. Joseph J. DiBuono, president of Videotape Production Association of New York. Mr. Williams will be accompanied by Pare Lorentz, a member of the board of directors, too.

I want to welcome all you gentlemen. Mr. Williams, as I told our previous witnesses, if you would care to summarize your testimony your full and complete testimony will be made part of the record, without objection.

STATEMENT OF W. G. WILLIAMS, PRESIDENT, INDEPENDENT MEDIA PRODUCERS ASSOCIATION, WASHINGTON, DC, ACCOMPANIED BY PARE LORENTZ, JR., MEMBER, BOARD OF DIRECTORS

Mr. WILLIAMS. Thank you, Mr. Chairman. I would like to do that. I think a little more can be learned this morning by an open exchange rather than reading something we have all already read anyway.

I would like to thank you for allowing Mr. Lorentz to join me here this morning. As you mentioned, Mr. Lorentz is a member of our board of directors. I think he might also be able to answer some questions you might have because Mr. Lorentz not only is an independent producer but has also been on the other side of the fence and worked as an in-house producer.

The Independent Media Producers Association is the only trade association for independent producers. By independent producer we are talking about businessmen and women who are in the business of producing motion pictures, audiovisual materials, and slide presentations for outside clients on a for-profit basis. We are also the only producers group based here in Washington, DC. As a result, we have worked with you and a number of other committees over the past few years trying to explain how government audiovisuals work with outside independent producers. In the late 1970's, I think, a number of the witnesses here today also participated in a marathon hearing. After 6 or 7 hours of witnesses and testimony, the chairman, at that time, Mr. John Burton I believe, summed the whole thing up by saying, "It is very obvious, gentlemen, that, after this testimony, I can determine that government audiovisuals is as screwed up as Hogan's goat."

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In addition, I would like to mention that IMPA does work with other organizations. This morning I am also representing the Small Business Legislative Counsel.

First of all IMPA wholeheartedly supports the purpose of this particular bill. Nevertheless we have a number of concerns—general concerns and specific concerns. Our general concern is that we are seeing a reduced use of outside contractors.

This is in contradiction to the stated purposes of A-76. We see a couple of reasons for that. First, there is a feeling that there are economies inherent in the production of things on an in-house basis. I think Mr. DiBuono and my written testimony would try to discount that as a real possibility. There is also a phenominal increase, almost of geometric proportions we think, in the complexities, either real or imagined, in procuring government audiovisuals from outside sources.

I have been consultant to a number of government agencies and I have watched as procurement officers simply threw up their hands in disgust, amazement, or frustration as they have tried to go through the processes necessary to procure an audiovisual production. I think passage of this bill would go a long long way toward reducing the complexities involved in procuring what is a very complex subject.

Our specific concerns are these: If the bill passes, we are concerned that the administrator specified in the bill, would be a prominent figure in television or movies—which is what most people interpret audiovisuals to be. To most people, television is network television: the "A-Team," "Hogan's Heroes," things of that nature. Movies consist of Hollywood: "Apocalypse Now" and "Star Wars." That is not the business I or Mr. Lorentz are in.

We are very concerned that someone from outside our business would be brought in as an administrator to administer a business that he or she might not know any more about than let's say agriculture. Bringing that up at this time, before the bill is passed or before anybody has been nominated, may sound alarmist; but it is a gut-level feeling that we are going to be encountering problems down the road when that time comes. So we want you to feel your reaction to it in advance.

The second specific point was brought up by one of the earlier witnesses. That is a concern that government isn't really aware of how our industry operates. What is a producer? The bill seems to feel that we are all specialists. This person produces animation, or spots, or some other specific kind of production. In reality, we look at the producer, in effect, as a general contractor. Those general contractors are IMPA members.

The producer goes out and hires facilities such as Mr. DiBuono's company or hires animation houses or hires a director who has a specialty in a particular area. The producer is the packager. In our business, producers don't really have specialties in most cases. Specialties are the role of the production house. They are handled by the directors.

We think that when the bill talks about hiring a producer with a specialty, we might be getting into trouble. We would be glad to work with staff members of the committee to come up with some language that would work.

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To conclude, I would just like to make the observation that IMPA is certainly not against the individuals who work in Federal Government, either in procurement or in the production of audiovisuals—in-house producers. We don't want to be their enemy in any way, shape, or form. They are people who are working within, I would have to say, a flawed system. If a producer is going to do his job—and in-house producers do their jobs—by definition, they have to produce.

If the agency doesn't have anything worth producing, that is irrelevant because a producer still has to produce to do his job. So they have to find something to produce. If there is nothing to produce, they still produce something and that something very often gets thrown up in one of these hearings as someone says, "Look at this particular example of waste and fraud." That is the way it works.

Our opinion is that if there is not an in-house production capability and they have to go out on contract for the things they need, there is no urgency to produce just something, anything, to keep the people busy.

The remainder of my comments are summed up in the written testimony, if it is part of the record. Thank you.

Mr. ENGLISH. Thank you very much.

[The prepared statement of Mr. Williams follows:]

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STATEMENT OF W.G. WILLIAMS
PRESIDENT,
INDEPENDENT MEDIA PRODUCERS ASSOCIATION, INC.
before the
GOVERNMENT INFORMATION, JUSTICE, AND AGRICULTURE SUBCOMMITTEE
on the subject of
H.R. 3325

I am W.G. Williams, the president of the Independent Media Producers Association and I also represent the Small Business Legislative Council. Here with me today is IMPA Board Member Pare Lorentz, Jr.; Mr. Lorentz has a long career as both an in-house producer for the federal government and, currently, as an independent producer.

Since 1976 IMPA has represented business men and women whose products are motion pictures, audio and video presentations, and slide programs produced for outside clients. For many of our members, a major client until recently has been the federal government. Unfortunately, recent years have seen the increasingly complex A-V procurement process combined with the "temporary" production moratorium imposed by the present administration bring about the elimination of the federal government as a viable market for many independent producers.

Over the years IMPA has been privileged to be able to provide information about our industry's operation to a number of other Congressional and governmental committees; we have also worked closely with the Office of Federal Procurement Policy and

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other executive offices in a number of attempts to develop a workable federal procurement policy for government audiovisuals.

Based on this background, IMPA totally supports the purpose of the Federal Audiovisual Policy Act as stated in §4001. It is our view that anything that can "promote economy, efficiency, and effectiveness in the procurement, production, and distribution of audiovisual material" can benefit both the taxpayers and the entire A-V industry. Obviously, we also enthusiastically applaud the statement requiring audiovisual material to be produced by professionals under contract. The policy of having the government not compete with the private sector is one that has often been stated but, to my knowledge, has never before actually had the force of law.

One of the most sizable benefits of the Federal Audiovisual Policy Act to both the government and to contractors would be the establishment of a uniform procurement policy for audiovisuals that would have the force of law on all government agencies. As many both in and out of government could tell you, there have always been almost as many procurement policies in this field as there have been agencies. Even today, with a supposedly uniform policy promulgated under OMB Circular A-114, many agencies pride themselves in the myriad ways they have found to circumvent the circular; some agencies and quasi-governmental organizations simply have declared themselves to be above the rules.

In agencies that have been willing to go by the book, the apparent result has been that procurement officers seem to have

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thrown up their hands in dismay at the increasingly complex regulations. Procurement officers have often suggested that offices needing audiovisuals find other ways of getting their message across.

The big loser is the taxpayer!

The major reason for the problems that government audiovisuals have encountered is the misconception that audiovisuals and "Show Business" are one and the same. To many, producing a motion picture equates to re-creating "Gone With The Wind" and isn't a videotape production TELEVISION? Of course it is and images soon appear of "The A Team" or "The Dukes of Hazard." In too many agencies the thought of using audiovisuals is discarded because of the fear that the agency will be accused of producing entertainment.

If that argument were effective, those agencies could not use printed materials either because novels are printed material and novels are entertainment!

In reality, audiovisuals are simply very effective communication tools. Those tools CAN be used to entertain... Hollywood does that very effectively... but in the context that we are discussing today, audiovisuals are used to inform and to educate. Audiovisuals do these things very well. In many instances, they do them better than anything else.

Another misconception, stereotype, really, is the image of "producers" as fast-talking smoothies in berets, ascots, and sunglasses ready to take the government's money and turn every

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conceivable subject into an expensive production. Often it is felt that, if an agency does productions in-house, they can save money by not being exposed to people trying to make a production of every subject. Nothing could be farther from the truth.

First, the stereotype is false! Independent producers are businesspeople who depend on client satisfaction for repeat business and referrals. Most legitimate producers recommend against the expense of an audiovisual production when the project's goals could be better achieved with something less costly. On the other hand, when an agency develops an in-house staff, that staff MUST keep busy to survive; unlike an independent producer, an in-house staff cannot go out and get other clients. As a result, an in-house staff often finds itself in the position of HAVING to produce something... ANYTHING... just to survive. Some of the productions that have resulted from such situations have been truly dreadful wastes of the taxpayers' money.

Many of these kind of productions have come to light in the numerous "studies" of government audiovisuals that have been ordered in past years. When they do surface, the terms "waste" and "fraud" are shouted and both the legislative and executive branches immediately vow to "clean up the mess." New rules are made that make procurement even more difficult... more in-house production departments spring up as a result... and the circle starts around once again.

And then there are the hundreds of thousands of dollars for equipment and supplies that have to be annually spent to

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support each of these in-house operations. With the rapid changes in electronic developments, the costs of keeping an in-house studio equipped with state-of-the-art equipment is really staggering...and the government has many of these studios, most of which, if not all, stand idle for a good portion of the work day.

Lest this sound like a condemnation of the individuals who are in-house producers, let me say that this is certainly not the case! I am simply saying that producers - regardless of from where their paychecks come - need to produce to keep those paychecks coming. Although independent producers have to go out and find new clients; in-house producers have to work with whatever is at hand. If there is nothing worthy of being produced, too bad! The system forces them to produce something anyway.

Although IMPA does strongly support the stated purpose of HR 3325; we do have some concerns about two portions of the bill and we would like to bring those concerns to your attention.

Our first concern is the appointment of the Administrator. Since this person will be appointed by the President with the advice and consent of the Senate, it is probable that the Administrator will be someone of prominence in the film or television industry. Almost by definition, someone of prominence would come from either Hollywood or the major television networks, i.e., "Show Business!" We feel that this could be disastrous both for government audiovisuals and for our industry.

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"Show Business" and audiovisual production are NOT the same! Unfortunately, "Show Business," because of the glamor associated with it, is well known while audiovisual production is simply considered to be a low budget version of the same thing. This is not the case; the processes are different, the equipment is different, the goals are different, and the criteria for success is often vastly different.

Each industry has its own specialists and ways of working. Virtually everyone has heard of the Academy Award Oscars and the Emmy Awards given in the "Show Business" industry but how many of you can name two similar awards given in the audiovisual production industry? The names Cecil B. DeMille, Norman Lear, and Grant Tinker are known to many as famous producers of entertainment but how many famous producers of audiovisuals can you name? I would wager that the names of many of the top producers in our industry would be totally unfamiliar to many in this room. The reason is simple!

It is a different industry!!! Someone with a "Show Business" background might be almost as unfamiliar with audiovisual production in this context as he or she might be with...let's say...farming! I realize that expressing concern about the appointment of the administrator before anyone is even nominated or even before the bill is passed out of committee might sound alarmist, but it is a matter about which our industry is concerned.

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Another concern we have is an apparent confusion about the way our industry operates as expressed in §4004, Paragraph (b)(6), Parts (A-I). As the bill is currently written, there apparently is a misunderstanding over the roles of the "Producer," a "Production House," and a "Director." Sometimes these roles are combined into a single entity but, more often, they are separate. As the bill is currently written, the combined role seems to be assumed.

A "Producer" is basically a packager; to put our business into more familiar terms, you might consider a producer to be a "General Contractor." A producer would hire a "Production Company" with the specific equipment needed for a particular project. On a project requiring animation, a producer would use an animation company, on another requiring medical photography, he would likely use a totally different firm...or perhaps both! In addition, a producer would hire a director who would be best for the job. Television spot directors, for example, are highly talented and very specialized. A look at Back Stage, the trade publication for TV spot production, will show advertisements for hundreds of spot directors, each with a particular specialty. These specialists, however, are directors rather than producers.

Unfortunately, H.R. 3325 appears to arbitrarily limit a "Producer" in ways that do not really conform to the manner in which the industry currently does business.

Perhaps I can illustrate this a bit more clearly by using myself as an example. I am a producer. I am NOT a production

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company in that I do not have any production staff or equipment...not even a camera. Although I have no animation equipment, I have won awards for government films that I have produced that featured animation. Although I am also a director, I do not direct spots but, again, I have won awards for TV spots that I have produced.

This section would be appropriate if the government were hiring either a production company or a director... which might often be the case. However, when the government wishes to contract with a producer, this listing becomes inappropriate and the wording needs to be clarified. An experienced producer can produce programs in any of the areas listed in this section by simply employing the proper production company and/or director. Such specialization by a producer in the audiovisual industry is not as common as this section seems to imply; again, this is a misconception brought about because of a confusion with "Show Business" where such specialization is more common.

We would like to suggest that this section be modified by simply eliminating the sentence that begins with "Such list..." on line 24 of page 6 and continues through line 14 on page 7.

In conclusion, the Independent Media Producers Association, Inc. totally supports the purpose of H.R. 3325. The second of the two concerns that I have expressed could be easily corrected; the first, that of insuring the selection of an Administrator with a real knowledge of the audiovisual industry rather than of "Show Business," is a thornier problem.

IMPA would be glad to work with the members and staff of this committee to see both of these concerns can be effectively addressed in the near future.

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Mr. ENGLISH. Mr. DiBuono.

STATEMENT OF JOSEPH J. DiBUONO, PRESIDENT, VIDEOTAPE PRODUCTION ASSOCIATION, NEW YORK, NY

Mr. DiBUONO. Good morning. Thanks for having us down. This is my second trip. I was before the Burton committee many years ago. My basic concern is—I have a very brief statement which I will read parts of to you. It relates to my expertise, which is in the video facilities business. I have been in that business since 1957.

In 1957 that was when the first videotape machine was introduced in Chicago by Ampex Corp. Prior to that all television was done live. So really we have a 27-year-old business with the invention of the machine. Being an expert in the field, having worked with the original facilities that started in New York City and there are many in California, I have become president of an association that represents 75 facilities and many factories in the East.

We also have a joint membership on the west coast of 21 major facilities in California. I will start out by basically reading my statement to you so that I do not miss any of the points I wanted to make.

I heartily endorse the efforts of James Faichney, and the other members of the Joint Management Labor Committee, in its long-standing attempt to foster efficiency and professionalism in the manner in which the Government and its agencies contract for production equipment and production services.

As such the passage of H.R. 3325 will give the necessary direction to all governmental agencies to help them work in concert with the private sector. As a result, both the Government and the videotape/film production communities will reap the benefits that come from the efficient and professional use of the existent resources at hand.

It is my understanding from what studies we have had over past years, that within the Government and its agencies there exists far too many television studios, editing rooms, and sound mixing facilities that have an unsatiable appetite for new funds every year for the continued maintenance of their old gear, and the ever present request for new state-of-the-art equipment.

Having spent the last 28 years of my life in the business, I can tell you that there is no way that a professional videotape facility in the private sector can continue to invest money to stay state of the art and remain profitable without operating 5 days a week, with two shifts a day in editing, 52 weeks a year.

The videotape facilities that exist within the Government can never operate at the efficiency levels achieved by the private sector and as a result Government run facilities will always run at a deficit. With the constant technological changes that take place in communications electronics, when tape was introduced it was a 2-inch medium. I remember when the Government bought its first tape machines. It was 2 inches. The industry moved to 1 inch. It has three-quarter. It is moving to disc and digital. God knows what it will be in the future.

I believe it is foolhardy for the Government to even attempt to stay state of the art in video technology. It is bad enough that we

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in the private sector have to foot the new bills each year to accommodate these new creative advances, but, to see our tax dollars being wasted each year by the Government in its attempt to be as good as the professionals in the field is disheartening.

We understand that the Government has to stay state of the art in weapons systems, but let's not fight the videotape cold war when we don't have to. I believe and hope that you believe that we need a new direction. Government videotape and film facilities should be consolidated to avoid waste that results from a duplication of efforts. Tapes and films of a sensitive nature should be produced in-house. All film and tapes, other than those that are classified, should be let out to bid to the private sector.

Imagine what kind of facilities the Government could have if it were to consolidate its technical resources into efficient units that could do in-house and sensitive work that had to be done by the Federal Government as opposed to expand in every direction for every agency in this technological field, with great waste.

I am not down here to grind anyone's particular ax, let alone my own, but I am here to grind the ax of integrity and sanity. I know that you have read H.R. 3325 and I ask that now members understand it and really help to see its passage. I will just make a few extra comments that relate to the cost of facilities and what it means when you are in the business of making a television study building editing rooms, sound mixing rooms, duplication facilities, in order to get the message out.

Reeves Teletape with all its buildings, all its equipment, is valued at somewhere around $20 million. We're one of the largest of the facilities in New York City. In order for us to make a profit and be effective we literally have to keep the facilities going daily. It is inconceivable that any facility in the Federal Government could possible be as effective as we are in the private sector.

Each year in our industry there is a need and somehow or another there is development of new technologies. One piece of equipment, AADO, which gives the ability of a picture to be turned around and put on an axis, costs in the neighborhood of $170,000 for that particular device. A new piece of equipment called the mirage costs $250,000 to buy. New technology in editing devices, a new one, Mantage, which everyone will go nuts over, is a $265,000 piece of equipment.

If the Federal Government does not do something about controlling spending by its agencies for technical local equipment for in-house facilities, you are going to see a never ending drain on resources because technology will not stop. It will not stand still. Currently videotapes are being recorded today in analog. We already know that there is equipment and technology on the horizon that will require and produce digital recordings.

What does this mean? This means every piece of equipment owned by the Federal Government and its agencies that relate to video will have to be replaced, meaning the cameras, the recorders, editing switches and consoles, the machines that duplicate. The Government cannot afford to continue to go down this path.

It will have to throw out everything it owns within 5 years and respend all of that money again. I say again, gentlemen, it is bad enough that we in the private sector have to foot this bill in order

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to be in business and stay in business and make a profit. When I look back over the records of Reeves Teletape as one of the largest facilities in New York and realize that we only did one job that was related to the Federal Government in the last 5 years, I have got to tell you that you are not making the best use of the facilities in New York City.

I would like to open it up to any questions you might have.

[The prepared statement of Mr. DiBuono follows:]

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Reeves Teletape | Facilities Group | 304 East 44th Street New York N.Y. 10017 | Telephone 212 573 8888

Statement by Joseph J. DiBuono

President - Videotape Production Association (VPA)

Vice President Of Marketing & Sales
Reeves Teletape Facilities Group

before the

House sub-Committee on Government Information, Justice and Agriculture

June 28, 1984

Subject: Government competition with the Private sector producer of Audio-Visual materials... H.R. 3325 - The Federal Audio-Visual Policy Act

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Mr. Chairman, Members of Congress:

I am Joseph J. DiBuono, Vice President of Marketing for Reeves Teletape, one of New York's leading videotape facilities.

I have also served three consecutive terms as President of The Videotape Production Association that represents the interests of seventy-five videotape production facilities and equipment manufacturers.

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Reeves
Teletape

I heartily endorse the efforts of James Faichney, and the other members of the Joint Management Labor Committee, in its long standing attempt to foster efficiency and professionalism in the manner in which the government and its agencies contract for production equipment and production services. As such the passage of H.R. 3325 will give the necessary direction to all governmental agencies to help them work in concert with the private sector. As a result, both the government and the videotape/film production communities will reap the benefits that come from the efficient and professional use of the existant resources at hand.

It is my understanding that within the government and its agencies there exists far too many television studios, editing rooms, and sound mixing facilities that have an unsatiable appetite for new funds every year for the continued maintenance of their old gear, and the ever present request for new state-of-the-art equipment. Having spent the last 28 years of my life in the videotape facilities business (videotape was introduced in 1957) I can tell you that there is no way that a professional videotape facility, in the private sector, can continue to invest money to stay

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state-of-the-art and remain profitable without operating 5 days a week, with 2 shifts a day in editing, 52 weeks a year.

The videotape facilities that exist within the government can never operate at the efficiency levels achieved by the private sector and as a result government run facilities will always run at a deficit. With the constant technological changes that take place in communications electronics i.e. from 2" tape to 1", to 3/4", to 1/2", to disc, to digital, to God only knows what in the future...I believe it is foolhardy for the government to even attempt to stay state-of-the-art in video technology. It's bad enough that we in the private sector have to foot the new bills each year to accommodate these new creative advances, but, to see our tax dollars being wasted each year by the government in its attempt to be as good as the professionals in the field is disheartening.

We understand that the government has to stay state-of-the-art in weapons systems, but, let's not fight the videotape cold war when we don't have to. I believe, and hope that you believe that we need a new direction.

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Reeves
Telestage

Government videotape and film facilities should be consolidated to avoid waste that results from a duplication of efforts. Tapes and films of a sensative nature should be produced in-house. Imagine what kind of truly first class, state-of-the-art facilities the government could have if it were to consolidate instead of continuing to expand. All film and tapes, other than those that are classified, should be let out to bid to the private sector.

I am not down here to grind anyone's particular ax, let alone my own, but I am here to grind the ax of integrity and sanity. I know you have read H.R. 3325. I ask you now to understand it and help see it through passage.

Thank you.

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Mr. ENGLISH. Mr. Lorentz, do you have anything you would like to say.

Mr. LORENTZ. No, sir; I am just here to be as helpful as I possibly can.

Mr. ENGLISH. I appreciate that.

Mr. DiBuono, do you know of any agencies that are planning to purchase this fancy new equipment you are talking about?

Mr. DIBUONO. No; but I will tell you something and you can help me here, every year there is a video trade fair in Washington. Am I correct?

Mr. LORENTZ. That's correct.

Mr. DIBUONO. In which all the video manufacturers come to Washington. It is an enormous fair to which they bring all the new toys, new recorders, cameras. I would just invite anyone serving on this subcommittee to know when that takes place and see how many people from Government agencies attend that fair, how many people actually place orders, how many people literally buy equipment.

I will tell you that the major manufacturers have equipment such as RCA, Norelco, Sharp, Sony, would not come down and spend millions of dollars to set up their booths in this trade fair unless they were selling something. I can tell you it isn't his facilities and the four or five facilities in Washington that are independents that are buying all that equipment. It is the Federal Government.

Mr. ENGLISH. If you come across any of those names I would appreciate if you would pass it on to us so we can inform the authorizing committees. I am sure they would be interested to know where some of the money is going.

Mr. WILLIAMS. The next trade fair is in September. It is now called IMCOM, produced by J. Spargo & Associates in Burke, VA.

Mr. ENGLISH. We would like to know what equipment Federal agencies are buying.

Mr. WILLIAMS. I think you would like to look into DOD and also USIA which has a number of major television studios here in Washington.

Mr. ENGLISH. Very good.

Mr. DIBUONO. If H.R. 3325 were put in place you would never have to ask that question in the future because questions for buying new equipment, consolidating, would come to the group setup to handle audiovisuals for approvals and advice. We would be able to keep track of this. The question would never have to be asked without an answer in the future. That is what this bill is important for.

Mr. ENGLISH. Mr. Lorentz, I think this will be right down your alley. The proposed legislation will create a new bureaucracy over in OMB. What makes you think a new bureaucracy will be able to do something the old one hasn't done?

Mr. WILLIAMS. One of the things that does distress me a little bit is the need to create a new bureaucracy. The current administration and I have not agreed on a number of subjects. One of the things we do agree on is the fact that there are already enough people in Government. But I do see the bureaucracy created by 3325, the Office of Federal Audiovisual Administrator, as being a

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first time effort, the requirements involving procurement and production of Government audiovisuals for the first time will have the force of law.

In the past A-V procurement has been handled by rules; it has been OMB circulars; it has been regulations and suggestions. Unfortunately the agencies have almost taken pride in the ways that they have found to sidestep the rules that OMB has put out. DOD was put in charge of enforcing OMB Circular A-114.

As a case in point, IMPA had a seminar here in May—May 15. The topic was "Doing Business with the Federal Government" and a number of people from different agencies were coming in to tell about how they did business with the private sector or didn't do business with the private sector. One of our panelists was from the DOD Directorate of Audiovisual Activities. When representatives from several other Government agencies found out that this person from DOD would be on the panel, they immediately withdrew saying we don't want them to know how we do business.

Mr. ENGLISH. Mr. Lorentz, do you have a comment?

Mr. LORENTZ. No. I agree with what Mr. Williams is saying. I would say as an independent producer I have not done a film for the Federal Government since 1973. Even that was a subcontract for the simple reason that I spent 2 to 3 weeks preparing a creative proposal and another week perhaps preparing a financial proposal.

Then I find that a mom and pop operation in Lawrence, KS, gets the proposal as a low bid. Now I have other clients in the private sector. And I would like very much to do work for the Federal Government. I was a motion picture officer under Ed Morrow and George Stevens, Jr., in the midsixties. So I know the other side of the coin. Of course, those were the heydays and things were different.

Those were men schooled in the industry. Ed Morrow was one of the best people I have ever met with audiovisual work—George Stevens doing specials and things like that. But we don't have people like that within the various agencies. If we did, I think we would be in better shape.

Mr. ENGLISH. Mr. DiBuono, given your expertise in the area of videotape production, do you think the Federal Government can compete with private enterprise?

Mr. DIBUONO. Never. It just can't. The whole problem is, it attempts to waste its efforts in two regards: One, the Government can never attract the bright people that graduate from our communication schools—the writers, directors, the producers. They are going to seek out more exciting work in many regards and not be the talented people that work within audiovisuals in the Government.

They find the challenge on the outside in the private sector is much more exciting, more projects to work on, a much more diversified field to be involved in. So we can't attract the talented.

Secondarily, if they can't attract the talented and they attempt to attract the devices we need in our business in order to make the product, electronic, changes in electronics, they are not going to be able to maintain those pieces of equipment because they are also going to have to attract talented engineering people.

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The talented engineering people are not going to want to work in that kind of an environment. If they are talented they will seek out the private sector jobs. So it is really kind of a foolhardy decision, knowing full well what is about to happen in this industry of electronics, that it is about to make another change. And it has been changing at the rate of every 3 years in technology.

There is no way you can stay abreast of it unless you are making a profit and can reinvest your profits back into the industry. The Federal Government is not in the business of making profits. I mean theoretically they are not supposed to be in that business at all. As far as creating another bureaucracy I don't understand H.R. 3325 that way at all. I look upon this particular legislation as creating an agency that one of its first jobs would be to examine and cut out all the waste.

I sincerely believe that if I as a professional came down here with some of the people in my industry and we went to every facility that the Government had in Washington, DC let's say, it would be with the USIA, the Post Office, whoever has these facilities. We would probably be able to say you don't need 10 or 20 of these, why don't you take some of the equipment of all of these and have 4 of them, and then run it like we do in our business.

Schedule Agriculture just like anybody else, if they have sensitive work, to come in and use 3 hours or 5 hours or whatever, or Monday, Tuesday, and Wednesday, but keep those three or four facilities busy all the time, making sure that actually you are getting the use out of the investment that you have involved here. We are not saying that the Government doesn't have a right or agencies don't have a right to do sensitive material in-house. They should.

Not everything should be out in the public sector. We are saying that the majority of the work that is being done in-house, there is obviously better professional people on the outside and more efficient people who actually give firm bids to the Federal Government. I don't know if you know this. Somebody comes to the outside and wants to get a job done. They bid that thing competitively and the guy who accepts the bid actually accepts it at a price, and it doesn't go beyond that, so there is control of cost.

I have no idea what happens on the announced production if they don't like it the first time do they do it a second time, a third time. Is there really a budget that they stay within production? I would seriously doubt it. We are saying that this particular agency would bring efficiency to this entire field, and not another layer of inefficiency.

Mr. ENGLISH. I want to thank you gentlemen very much. I appreciate your testimony. It has been helpful to us.

Mr. WILLIAMS. Thank you, sir.

Mr. ENGLISH. Thank you for taking the time to do it.

Our next witness will be Mr. Donald Sowle, the Administrator for Federal Procurement Policy, Office of Management and Budget. I am going to let you identify the gentlemen that are with you for the record.

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STATEMENT OF DONALD SOWLE, ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY, OFFICE OF MANAGEMENT AND BUDGET, ACCOMPANIED BY LeROY J. HAUGH, ASSOCIATE ADMINISTRATOR FOR POLICY DEVELOPMENT, AND CHARLES CLARK, DEPUTY ASSOCIATE ADMINISTRATOR

Mr. SOWLE. Yes, Mr. Chairman. On my left is LeRoy Haugh, who is Associate Administrator for Policy Development within OFPP. On my right is Charles Clark, who is Deputy Associate Administrator and the one who has primary responsibility in our office for the audiovisual policy area.

Mr. ENGLISH. Mr. Sowle, we will let you summarize your testimony, if you would like, and without objection your full and complete testimony will be made a part of the record.

Mr. SOWLE. All right, sir. I would like to do that. I don't have an overall summary statement, but I will try to summarize as I go through, and cut out as much as I can and still get our points across. I appreciate the opportunity to come here and testify on H.R. 3325. We of course support your interest in prudent management of Federal audiovisual resources. I do believe, however, that our mutual objective of effective spending in this area can be accomplished without establishing a separate audiovisual management office.

We have several policies in this area now. I would just like to mention those which H.R. 3325 largely duplicates and would put into law, which of course eliminates some of the flexibility that we have in good management of the audiovisual area. We have OMB Circular A-114, which was mentioned a little earlier, and OMB Circular A-76, which I think is very important insofar as this particular program is concerned, and Policy Letter, 79-4.

I would like to say just a few words about the coverage we have today, what we are doing to update it and some proposed changes that we have coming up.

A-114, the OMB circular which has perhaps the major impact, contains policies governing productions and utilization of facilities—improved utilization, a point that has been made a little earlier today—the use of Federal employees, as performers in production; the phasing out of certain in-house motion picture film processing activities, and other things which I will get to a little bit more in discussing the revisions that are now underway.

I would like to say with regard to OMB Circular A-76 that it has been a very controversial program. The idea behind it is to do a comparison of the cost of performing commercial activities in-house with the cost of performance by contracting with the private sector. We have found in most of the organizations that have made cost comparisons of commercial activities in accordance with a predetermined format, that about half of these stay in-house and half go to the private sector. This is a very important program in terms of our audiovisual policy.

OFPP Policy Letter 79-4 deals with the contracting system for the procurement of both motion picture and television productions.

I am sure you are aware, Mr. Chairman, that in addition to the policies contained in these directives, the President issued a moratorium in April 1981 that prohibited the production of new audiovi-

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suals. We were all directed to do better in developing management plans to assure that the audiovisual area, which has been given so much criticism over the years, would come under control. We think we have done pretty well in this area. We have had an overall decrease in Federal audiovisual activities, both by contract and in-house.

In our proposed revisions we are trying to further improve the management of these activities. OMB Circular A-114 is being revised. It has been informally coordinated within the executive branch, and it will be out for comment shortly for those who are interested in the audiovisual program within the Federal Government. I am sure that some of the points that were made here this morning will be included in the comments that received, and of course we will deal with those as we receive them.

Among specific changes is a requirement that control systems be institutionalized within each agency, to monitor and document agency audiovisual activities.

The revised circular also would require the agencies to adhere more closely to the policy of Circular A-76 which I just mentioned.

It rescinds several of the attachments to the current circular, and restates some of the things that have already been accomplished. I won't go into those details.

With respect to the contracting system—this always comes up for a lot of criticism and comment—largely because in many cases the policies and procedures in the procurement system are not well understood. It has become a very complex system. I would point out, however, that at any time we are invited to participate on panels to help clarify what goes on in the procurement system, we participate in those activities.

Our goal is to simplify the procedures used by both the agencies and the potential contractors in procuring motion picture and television productions. We think it is very important that the private sector be used to obtain new productions, and we think it equally important that our policy and procedures create a workable and responsive mechanism to accomplish that goal.

I think what we have done in the previous policy letter has been helpful, not only to the audiovisual industry, but also to the Federal Government.

I might point out also, Mr. Chairman, that recently the President's private sector survey, frequently referred to as the Grace Commission, made a pretty thorough review over a 6-month period, which concluded that the Government's audiovisual activities are generally operated in a cost-effective manner. You know they weren't all that complimentary about many other areas of the Federal Government, so I think it is rather significant that they thought this was really being handled in a cost-effective manner.

Some claims have been made in the past that we are spending millions, in fact billions of dollars in the audiovisual area. The fact is that over the last several years, the amount of expenditures have been in the area of $100 million. When you think of this, Mr. Chairman, in terms of the percentage of the total prime contracts of $169 billion in fiscal year 1983, it becomes a pretty small element. It is still a lot of money, obviously.

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The Grace Commission in its study found that expenditures for audiovisual products were being planned and allotted prudently, and that they were consistent with general industry trends. The Commission noted that the current available information shows some cutbacks in expenditures, a shift to greater utilization of existing materials, and a trend toward better utilization of cost-effective media. Government in-house productions, and the way we are doing these, are following a downward trend and very much coincide with industry trends.

The Grace Commission also said that the management of Federal motion picture and other audiovisual productions has been adequately institutionalized by OMB and the individual agencies. The management controls and guidelines were well presented, and from their viewpoint operating effectively.

I would just like to summarize, Mr. Chairman, and say that the activities that we have ongoing and are keeping track of in terms of the two OMB circulars, the President's moratorium and the tightened agency controls and improved contracting practices, have largely eliminated the problems we have heard about in the past. Therefore, we don't feel at this point it would be economically or functionally desirable to set up a new office, as indicated in H.R. 3325.

Mr. Chairman, that is a quick summary of my statement. I would be pleased to answer any questions you may have.

[The prepared statement of Mr. Sowle follows:]

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL
PROCUREMENT
POLICY

NOT FOR RELEASE UNTIL
11:00 a.m., June 29, 1984

TESTIMONY
BY
DONALD E. SOWLE
ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY
BEFORE THE
SUBCOMMITTEE ON GOVERNMENT INFORMATION,
JUSTICE AND AGRICULTURE
COMMITTEE ON GOVERNMENT OPERATIONS

June 29, 1984

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to testify on H.R. 3325. I, of course, support your interest in prudent management of Federal audiovisual resources. I believe, however, that our mutual objective of effective spending in this area can be accomplished without establishing a separate audiovisual management office.

OMB Circulars and OFPP Policy Letters

The policies proposed by H.R. 3325 duplicate, and would place into law, those executive branch policies now contained in Office of Management and Budget (OMB) Circular A-114, OMB Circular A-76, and Office of Federal Procurement Policy (OFPP) Policy Letter 79-4.

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The present OMB Circular A-114 generally requires that agencies and departments:

- Limit their audiovisual productions to program-related functions.
- Improve the utilization of their audiovisual facilities.
- Restrict the use of their employees as performers in productions.
- Phase out certain in-house motion picture film processing activities.
- Consider other communication modes prior to contracting for audiovisual productions.
- Coordinate new productions and, thereby, avoid duplication of production efforts.
- Test the effectiveness of their audiovisuals.
- Report annually on the volume of their audiovisual activities.

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OMB Circular A-76 contains our basic policy concerning reliance on the private sector for commercial type products and services, and Policy Letter 79-4 prescribes a uniform contracting system for the procurement of both motion picture and television productions.

President's Moratorium

In addition to the policies contained in A-114, A-76 and Policy Letter 79-4, the President, in April 1981, issued a moratorium that prohibited the production of all new audio-visual programs, "pending the development of management plans." This Presidential initiative required agencies to institute control systems for the production of new products and required management reviews to ensure that agency mission, overall costs, and other management factors were considered before production.

The control systems required by the President's moratorium were linked to those agency operations covered by OMB Circular No. A-76 and have led to a general overall decrease in Federal audiovisual activity.

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Proposed Policy Revisions

As part of our continuing effort to improve the management of audiovisual activities, we are now drafting a revision to OMB Circular No. A-114. The proposed revision incorporates, and will make permanent, the audiovisual management control policies prescribed in response to the President's memorandum. It also improves the organization and clarity of the original Circular and updates the management policies initially prescribed in 1978.

Specifically, the major changes being proposed are to:

- Require that control systems be institutionalized within each agency to monitor and document agency audiovisual activities.

- Require agencies to adhere to the policies of OMB Circular No. A-76, "Performance of Commercial Activities." The previously imposed minimum utilization standard has been eliminated in favor of management studies required by A-76.

- Rescind Attachment C of the original Circular, "In-house Processing of Motion Picture Film," since that objective has been accomplished.

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- Rescind Attachment F, "Use of Contracts, Grants and Cooperative Agreements," and incorporate it in Attachment B of the new Circular.

- Rescind Attachment G, "Contracts for Motion Picture Production." Procurement policies governing both motion picture and television productions are currently set forth in OFPP Policy Letter 79-4. Policy Letter 79-4 will continue in effect until revised and reissued at a later date.

- Abolish the Federal Audiovisual Committee as a standing Interagency Committee. Policy changes and initiatives will be coordinated, as required, by OFPP.

- Simplify the mandatory title check procedure. Agencies, however, shall continue to be required to use the resources of the National Audiovisual Center to determine whether Federal productions are available. A review of commercial media collections will also be required before new productions are initiated.

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The proposed revision to A-114 is scheduled for publication in the Federal Register within the next week or two for public comment.

Review of Contracting System

With regard to our contracting policies, a review is being undertaken to determine what changes need to be made to Policy Letter 79-4. Our goal is to simplify the procedures, used by both the agencies and potential contractors, in procuring motion picture and television productions. We think it important that the private sector be used whenever possible to obtain new productions and we think it equally important that the policy and procedures create a workable and responsive mechanism to accomplish that goal.

Grace Commission Review

The improved management of Federal audiovisual resources was documented recently by the President's Private Sector Survey on Cost Control (Grace Commission) Report on Audiovisual Activities. This report was compiled after a 6-month independent study by private industry representatives on the effectiveness of present audiovisual policy. The report concludes that:

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- That Government audiovisual activities are generally operated in a cost-effective manner.

- Previous claims that the magnitude of the Federal audiovisual activities was in the billions of dollars have not been substantiated. The facts regarding expenditures for Government audiovisual production have been reported for the last 5 years by the National Audiovisual Center. Expenditures in this area have consistently been near $100 million.

- Expenditures for audiovisual products are being planned and allotted prudently and are consistent with general industry trends. Current available information shows desirable cutbacks in expenditures, a shift to greater utilization of existing materials, and a trend towards utilizing the more cost-effective media. Government in-house production facilities are becoming more efficient and the use of more costly, custom produced materials are more carefully planned. Government use and production of audiovisual materials is generally consistent with current industry trends.

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- The management of Federal motion picture and other audiovisual production has been adequately institutionalized by OMB and the individual agencies. The management controls and guidelines for audiovisual activities have been well-guided at the central level and the agencies report satisfaction with their programs through improvements attributable largely to the OMB initiatives.

Conclusion

The results of the private sector study indicate that the problems cited during the 1970's about Federal audiovisual management no longer exist. The two OMB Circulars; the President's production moratorium; tightened agency controls; and improved contracting practices have largely eliminated past problems and have offset the need to establish the special office proposed by H.R. 3325. We acknowledge the need to continue to stress improved audiovisual management and have already set in motion plans to make appropriate revisions to the current policy documents.

Mr. Chairman, that concludes my statement. I'll be glad to answer any questions.

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Mr. ENGLISH. Mr. Sowle, right off the top, I want to ask you a question that I asked Mr. DiBuono. Do you think that the Federal Government right now can compete from a cost standpoint to the taxpayer with private industry in the production of audiovisual material?

Mr. SOWLE. I think for the most part Mr. DiBuono was exactly right. However, we have found in the A-76 process—and this is a very specific method of going about an evaluation—that where the agency is given an opportunity to improve its own organization structure, its own staffing, its own method of operation, that it can, in approximately 50 percent of the cases, do as well as the private sector. Now, that is overall.

In the audiovisual production area, my personal feeling would be that we probably could do better by contracting with the private sector. We are on track, just about as heavily as we can be at the present time, and have been for the last 3 years in implementing the A-76 policy.

Mr. ENGLISH. So what you are telling me is that in better than 50 percent of the cases, the taxpayer would save money if it was contracted out?

Mr. SOWLE. Yes, sir, and maybe more than that in the audiovisual area. I don't have a breakdown of that specifically. Audiovisual activities are included along with motor pools, operation of the computer centers, guard services, et cetera. I would think in the audiovisual area, in my own personal judgment, that it may be even a little bit more toward the private sector.

Mr. ENGLISH. I guess the next question is if 50 percent of the $100 million you are talking about could be better spent in the private sector and save the taxpayers money. Why isn't it being done?

Mr. SOWLE. It is being done, Mr. Chairman. We do have about a third of the total audiovisual production now being done by the private sector through contracts, and we are working to increase that amount or to bring at least the balance that would be more efficiently done that way.

Mr. ENGLISH. I guess the question I have in my mind, is that here you have told me that half of the work that is being done by your estimate could be done better and cheaper by the private sector. It would save the taxpayers money during these difficult times when we have huge budget deficits, and the most you can tell me is that maybe a third of the audiovisual material is being produced in the private sector, and you are hopefully, moving to do the rest. The question is, I guess, why isn't it being done today? I thought the Office of Management and Budget were pretty tough folks to get along with.

Mr. SOWLE. You know, Mr. Chairman, we have several groups we have to deal with. We have a great resistance from unions, Federal employee unions. We have had many pieces of legislation that have precluded our contracting out, not specifically for audiovisual, but there is a great deal of emotion over this whole area, and I think, Mr. Chairman, it would be misleading or presumptuous in many cases to say we are going to contract everything out.

Senator Rudman had a bill along these lines, and I testified on that bill. Although the concept perhaps was good, we have over the last 35 to 50 years, brought these activities in-house, and you can't

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just all of a sudden decide that these people's jobs are going to be gone, and so we have taken I think a very balanced approach, a very balanced view of how we can gradually get out of the fix that we have been in. There is some fairness there I think that we have to think about.

Mr. ENGLISH. I did not suggest to you, Mr. Sowle, that you contract out for the sake of contracting out. I said contract out in those cases where you can save money. You told me that half the audiovisual materials could be done cheaper by private enterprise, but that is not what you are doing. You are giving me a lot of reasons here, such as employee unions. That is kind of vague. You are telling me about some other laws that don't specifically apply to this, and that is kind of vague.

I would like to know the exact specific reasons why this isn't being done. You can save money, you have said. You people in the Office of Management and Budget have the responsibility for cracking the whip. I have a program that is sitting over in the Senate in conference right now that we are stuck on. We need $50 million to help protect and save the soil of this Nation, and Senator Dole is telling me now we can't do that. We can't do that because we have these budget deficits, and we can't do anything that is going to make that budget deficit situation worse.

We are going to have the topsoil of this Nation floating down the creek, simply because you people over at OMB aren't cracking the whip to save a little money for us so we can make it possible. The question I am asking you is how come we have to sacrifice the topsoil of this Nation because you have some vague concern over here that the OMB may not be that eager to save money in this area. That is the impression I am getting.

Mr. SOWLE. If I gave you that impression, it is completely wrong. We are very much interested in saving money. As I mentioned, about 50 percent of the activities that are studied end up being done in-house, because it is more cost effective.

Mr. ENGLISH. We are talking about the part that is not more cost effective?

Mr SOWLE. The part that is not more cost effective is in the process of going to contract just as fast as we can do it. I think we are making good progress. Whenever we have competition from the private sector, whenever the Federal agency looks at this, we have overall approximatley a 20-percent savings. So I am 100 percent in agreement with you, Mr. Chairman, that we ought to be looking at any place we can save money, and we are doing that.

Mr. ENGLISH. It sounds to me like you agree with me but you are not doing it.

Mr. SOWLE. We are doing it.

Mr. ENGLISH. Let me make a point. I am going to have to vote here and I will be right back, so if you will think about it a little bit, and maybe we could get more specific about some of these areas. The next question I am going to ask you is the number of Federal employees who spend the majority of their time working on production of audiovisual materials. If you could think about that, I will be right back.

[Recess taken.]

Mr. ENGLISH. Mr. Sowle, have you got an answer?

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Mr. SOWLE. You want to go back to what we are talking about?

Mr. ENGLISH. No; why don't we go ahead and see if we can get the number of Federal employees whose——

Mr. SOWLE. I don't really have that information here, but I will get it for you, Mr. Chairman.

Mr. ENGLISH. People who spend the majority of their time working on production of audiovisual materials.

Mr. SOWLE. Yes; I think we can get that. We don't carry that data all the time in OMB, but I think we can get that through the Office of Personnel Management. Could I say, Mr. Chairman, that apparently I wasn't making my point very good, on the contracting out. It has only been since this administration came in that we have really put an emphasis on A-76, and then only since last year, last budget year, did we tie the A-76 program into the budget process. So I think, you know, it does take a little time to get some of these things turned around, and certainly we are working on that, and hopefully we can do exactly what you are asking us to do. We are certainly in agreement with what you are saying.

Mr. ENGLISH. With regard to these employees, if you are going to submit that for the record, why don't you also submit what their salaries are, what the totals are for all those salaries for all those employees. I would assume—and correct me if I am in error—that all of those employees are spending most of their time in the production of audiovisual material, and that is charged as part of the cost of producing that audiovisual material, is it not?

Mr. SOWLE. Oh, yes, sir, and under A-76, the overhead cost is placed on top of that.

Mr. ENGLISH. Mr. Sowle, how is OMB able to enforce A-114's in the policy guidance? For example, attachment A requires that the agency production facilities that use less than 950 hours during the fiscal year for audiovisual production should be phased out, or merged with other facilities. How has that policy been achieved, and how do you know it has been achieved?

Mr. SOWLE. About the only way OMB has for enforcement, of course, is through the budget process. I think as a general concept of enforcing any policy that comes out of OMB, it is left to the agency heads, who have the management responsibility for the agency, to assure that the policies are carried out. The agency head, in addition to his own management structure, has his I.G.'s and the General Accounting Office. These folks are checking continually on things for the agency.

Mr. ENGLISH. I don't kinow whether they are checking continually or not. I know we come across an awful lot of items that haven't been checked by anybody for years and years, and so I would question that. I assume then what you are telling me is that about all you have to go on is that agency's word. If he comes back and tells you "We did what you told us to do," then you take his word for it; isn't that right?

Mr. SOWLE. I think we have to depend on the agency heads to do their jobs, yes. We don't take their word for everything, obviously. During the budget process there are a lot of questions raised.

Mr. ENGLISH. That is a big budget. You have a lot of items to cover. I wouldn't think that you would have enough people over at OMB, once you start into the final phase of that budget. You don't

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have a lot of extra folks to spare, do you? You don't have time to go look in every nook and cranny.

Mr. SOWLE. No way, and OMB is not set up as an enforcement agency. It is not part of their functions.

Mr. ENGLISH. That is what troubles me a little bit. You issue the guidelines, and then the agency head comes back and says, "Well, we have done everything that you tell us to do." Maybe he has, maybe he has not. Maybe he is living up to the letter, but maybe not the spirit of the guidelines.

You know these agencies have sharp attorneys over there, and they find little loopholes. They can find loopholes in a lot of the laws passed by Congress. They wiggle and squeeze through those, and we find out all of a sudden we have a law that is not being carried out in the manner that was the intent of Congress. I would assume that that has happened more than once with OMB, has it not?

Mr. SOWLE. I am sure that is true, but I am not sure that it would be economic to set up another whole enforcement agency in OMB for that purpose when you have got managers that are supposed to do the job.

Mr. ENGLISH. But it would seem to me that there would be some wisdom in OMB doing some spot checks every now and then, finding out if in fact these agencies are carrying it out as intended by OMB. What is wrong with that?

Mr. SOWLE. I think it is, again, a matter of functional alignment and resources as to how much you can do about it. I would see no problem in making a spot check occasionally, no.

Mr. ENGLISH. But you haven't checked in this area, have you?

Mr. SOWLE. We have not, no. We haven't.

Mr. ENGLISH. How much does the Federal Government have invested in studios, cameras and all this other facilities for production of audiovisual material?

Mr. SOWLE. I am not sure that we have that.

Chuck, do we?

Mr. CLARK. No.

To my knowledge, sir, there is no current figure on that. There have been some estimates made in the past. I think it is like most things, the Government does not maintain a current net worth statement. The cameras and the facilities, things that are purchased, as I understand, are carried at their acquisition cost, and are not depreciated or anything. We could maybe find some statistics that had been put forth in previous studies, but to my knowledge there is no current estimate of the total value of the government's holdings in the audiovisual area, or in any other area that I am aware of, sir.

Mr. ENGLISH. The question comes up then, if you don't know how much all that stuff costs, how much everybody has, then how in the world do you know how much to attribute to the cost of a particular item that has been produced?

Mr. CLARK. I think, again, there are Federal property management regulations that dictate that the agencies should use equipment and facilities in a certain manner, and the agencies have a budget for making various productions and they generally try to estimate what their in-house costs are. As Mr. Sowle said, in the

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A-76 area, when you make a cost comparison between facilities, you factor in not only salaries and overhead, such as the rent and the space and utilities, but the cost of equipment. But they do not do it for each and every production, sir. That is true.

Mr. ENGLISH. The thing I am troubled about is we don't know how much all of our equipment costs. We don't know how much we have invested in studios. We don't know how much we have invested in facilities in general which are used primarily for this purpose. We don't know how many people are spending the majority of their time producing all this material. The only thing we have to go on is what some agency comes up and says, "This is how much we want to spend."

Now, for all you know, that request could be for nothing except for going out and buying film; isn't that right?

Mr. CLARK. That is true. But, again, I think you have to look to the integrity of the agency management. We don't micromanage an activity such as audiovisuals in OMB. It is up to the head of that agency, the Inspector General, the financial management of that agency, to assure that the agency is spending its resources and managing its resources in a prudent, effective manner.

Mr. ENGLISH. But if nobody is looking over their shoulder and checking, nobody knows, do they?

Mr. CLARK. I think there are people looking over their shoulder. There are inspectors general; as Mr. Sowle mentioned, the General Accounting Office looks over the agencies' shoulders. The General Services Administration conducts periodic reviews of the agencies' space holdings including audiovisual facilities.

Mr. ENGLISH. Just 1 minute. If GSA is out checking on their actual facilities, then it looks like you would know what the Government has invested in studios. GSA would have that listed, wouldn't it?

Mr. CLARK. I don't think GSA catalogs their space inventory in that manner. I think they catalog it by office, special-purpose space, and storage space. Those are the main categories. Audiovisual facilities would be carried as special-purpose space, just as computer rooms would be and other special-purpose type facilities.

Mr. ENGLISH. It is just lumped together there?

Mr. CLARK. As far as an overall governmentwide inventory, yes, sir.

Mr. ENGLISH. So GSA doesn't know, do they? They don't know how much space is out there being used for audiovisual material production, do they? All they do is lump it together?

Mr. CLARK. Again, on a regional, on a city, on an agency basis, the GSA person in charge of that particular area would have a good idea of what audiovisual facilities there are within his or her particular region.

Mr. ENGLISH. What kind of directives does he or she receive from OMB and from the head of GSA as to what could be expected to be a reasonable amount of space for studios and production equipment and material and whatever?

Mr. SOWLE. Mr. Chairman, I think we would have to get GSA to talk to those points. We don't have that kind of data.

Mr. ENGLISH. That is what is troubling me a little bit, Mr. Sowle. It looks to me like, as I said, you folks are the ones that are sup-

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posed to be the watchdogs over all this spending, and it doesn't seem to me that you have the answers.

You talked about the inspectors general—how many agencies have inspectors general?

Mr. SOWLE. I think practically all of them now.

Mr. ENGLISH. Does the United States Information Agency have an inspector general?

Mr. SOWLE. I am not sure if they do or not.

Mr. ENGLISH. Does the Justice Department have an inspector general?

Mr. SOWLE. I don't have a list of exactly who has or who hasn't, but I think the Congress has decided which ones they thought ought to have, and they now have them.

Mr. ENGLISH. That is correct. The Congress has decided that, with the concurrence of the administration, of course.

Mr. SOWLE. Sure.

Mr. ENGLISH. I remember we talked an awful lot about the Department of Defense. We tried for years and years to get one in the Department of Defense.

Mr. SOWLE. I am aware of that, yes, sir.

Mr. ENGLISH. We had a lot of resistance from over there in the administration on that little item, didn't we?

Mr. SOWLE. I think so. I wasn't involved in that, but I think that is true.

Mr. ENGLISH. The Treasury Department doesn't have an inspector general, I am informed by counsel. My goodness, we have a lot of them that don't.

Mr. SOWLE. I think your question on the USIA perhaps is a good one, because USIA and Defense have between them 70 percent of the total in the audiovisual field. What Treasury might have I am not sure.

Mr. ENGLISH. They all have them, don't they?

Mr. SOWLE. Sure.

Mr. ENGLISH. They have their own studios and equipment?

Mr. SOWLE. I don't have that kind of information. I don't know. I will be glad to make a survey, if that is what you would like, Mr. Chairman.

Mr. ENGLISH. We heard testimony this morning that once a year all of the companies that sell fancy equipment, the latest state of the art, all come to Washington, and we don't have many independent film companies here in Washington that need to buy equipment. It was suggested that these companies come down here and spend millions of dollars, put on display the latest state of the art. The reason they are here is to display this to the Federal Government.

Mr. SOWLE. I heard what he said. I don't have the information on that.

Mr. ENGLISH. You are not aware that such shows take place?

Mr. SOWLE. No, sir; in fact, in the procurement process, it is impossible for them to come down here and place an order. They would have to go through the procurement process to do that.

Mr. ENGLISH. Speaking of that procurement process, does OMB, then, know of the purchases of all new equipment like this, and how much is being spent?

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Mr. SOWLE. No, sir, no way; we sure don't.

Mr. ENGLISH. We have a problem there too, don't we?

Mr. SOWLE. No, we wouldn't think so, because we have managers out there to look after that.

Mr. ENGLISH. Managers?

Mr. SOWLE. Agency managers, yes, sir.

Mr. ENGLISH. And so we are back to——

Mr. SOWLE. Yes, sir, absolutely, that is right.

Mr. ENGLISH [continuing]. This agency fellow again. He is the guy who has all the answers.

Mr. SOWLE. That is right.

Mr. ENGLISH. We believe in him, don't we?

Mr. SOWLE. Yes, sir, we sure do.

Mr. ENGLISH. And we trust him?

Mr. SOWLE. Yes, sir.

Mr. ENGLISH. And we know that he is going to live up to the spirit of the law as well as the letter of the law because he told us so, right?

Mr. SOWLE. Not because I told you so, but I think generally they do. I guess there are exceptions to every rule, Mr. Chairman.

Mr. ENGLISH. I didn't realize OMB was that trusting. You are trusting souls.

The Department of Defense accounts for almost 60 percent of all the audiovisual costs of the Federal Government. What is DOD's compliance rate with OMB guidelines?

Mr. SOWLE. Well, as we discussed a little earlier, we are not a compliance office, and I don't really know.

Mr. ENGLISH. So you don't know whether they comply with what you are telling me?

Mr. SOWLE. I think they are.

Mr. ENGLISH. This is another one of the deals where because they tell you?

Mr. SOWLE. That is right.

Mr. ENGLISH. Good faith?

Mr. SOWLE. Yes, sir; we trust our people.

Mr. ENGLISH. What is the function of the Directorate for Audiovisual Management Policy within the Department of Defense?

Mr. SOWLE. Chuck, do you have a functional statement?

That is something that is spelled out, I am sure, I can get that for you, Mr. Chairman.

Mr. ENGLISH. Neither of the two gentlemen with you know what that is?

Mr. CLARK. I don't know what their total function is. They are responsible for maintaining the qualified list of film producers and qualified list of video tape producers for the governmentwide contracting system that we have. What their function is with regard to the Department of Defense, that I can't speak to, but, as Mr. Sowle said, they would have an organizational/functional statement which we could obtain and make available.

Mr. ENGLISH. You all don't work very closely with these folks then, even though it is the audiovisual management policy?

Mr. CLARK. For the Department of Defense?

Mr. ENGLISH. For the Department of Defense. You don't work with them, then?

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Mr. CLARK. We coordinate with them with regard to the qualified film producers list, qualified video tape producers list, the governmentwide contracting system, but we do not get into their management policies with regard to management within the Department of Defense.

Mr. ENGLISH. And you don't know what other management they do?

Mr. CLARK. I would rather submit a total statement.

Mr. ENGLISH. As I said, just from the name it would imply that they have set the management policy within the Department of Defense for audiovisual material and you are with the Office of Management and Budget. It seems like that would have a heavy bearing upon the audiovisual production of the Department of Defense, and would have a heavy bearing on the management policies, and would have a heavy bearing on the costs, and it would seem to me that you all would know what they do.

Mr. CLARK. I think they do what the name implies; Mr. Chairman, that is, that they do audiovisual management policies for the Department of Defense.

Mr. ENGLISH. So that is their deal. You really don't know what all they do. You think generally this is what they do, but you don't know what it might encompass; is that right?

Mr. CLARK. I wouldn't want to enumerate, because I could leave out certain functions that may be important, and I would rather give you the functional statement.

Mr. ENGLISH. Mr. Sowle, what management practices would be required by H.R. 3325 that aren't being done today?

Mr. SOWLE. Well, I guess the only thing that I would see offhand is the establishment of the office, 35-person office, to issue policy and maintain oversight. I think most of the other things are actually being done.

Mr. ENGLISH. Oversight? They would be able to check to see if management policies were being followed? You wouldn't just have to trust on blind faith what somebody was telling you, you could make sure that the spirit of the law is being lived up to as well as the letter; is that right?

Mr. SOWLE. I guess if you want to put 35 people working on 100 million dollars' worth of business you could certainly know much more than we now know.

Mr. ENGLISH. Is that what it takes, about 35 people?

Mr. SOWLE. I think that is what your bill says, Mr. Chairman.

Mr. ENGLISH. It is not my bill.

Mr. SOWLE. The bill, yes, sir.

Mr. ENGLISH. Of course, we are not too sure how much money would be saved, are we?

Mr. SOWLE. There is no way to know precisely, no, sir.

Mr. ENGLISH. Because we don't know specifically how much is being spent on the whole production of audio management material. We don't know how many studios we have. We don't know how many people spend most of their time dealing with the subject.

Mr. SOWLE. I didn't say that this wasn't known. I said I didn't know. I would be glad to get whatever information I can for you.

Mr. ENGLISH. Staff has just provided me with an interesting question. The Deficit Reduction Act, you are familiar with that?

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Mr. SOWLE. I know of it, yes, sir.

Mr. ENGLISH. It just passed the Congress, as you know, so it is in your ballpark now. It provides for OMB to allocate among the agencies cuts in audiovisual expenditures $100 million during fiscal year 1985. If OMB doesn't know who is spending what or how many personnel or who has been buying what equipment, how is OMB going to implement the cuts called for in the act?

Mr. SOWLE. I guess through the normal process. I am not in the budget process, you understand that, but I presume that through the budget process they will be going over every agency who has a requirement for audiovisuals.

Mr. ENGLISH. They will be asking these fellows now how much fat you have over there in the audiovisual department? Can you write us a letter?

Mr. SOWLE. I am not familiar with exactly how they handle the budget process, but I know there are inquiries. I know that they discuss the budget with the agencies independently.

Mr. ENGLISH. I guess the question comes then, when we are looking around at all the money, that has to be cut, and are not looking at personnel who are spending the majority of their time producing it, we are not looking at equipment, and we are not looking at studios. Do we have to dig up 100 million dollars' worth of film everybody is buying.

Mr. SOWLE. I wouldn't want to leave you with the impression, Mr. Chairman, that that is not looked at. I am saying that OMB does not have that kind of a function in detail to carry out compliance on what the agencies do. It is part of the normal Government process.

Mr. ENGLISH. But OMB is the one who has the responsibilities under the Act to do the job.

Mr. SOWLE. And they will do the job that they are required to do, I am sure.

Mr. ENGLISH. How do you make sure that Federal agencies aren't duplicating production or procurement of audiovisual materials?

Mr. SOWLE. Well, again it is a policy area. It is required that they review duplication and cut out duplication. The degree to which they do it, again, is a management responsibility of the agency.

Mr. ENGLISH. Mr. Sowle, I have to say I haven't been reassured by your testimony that OMB really has a very good handle on this whole thing. As I said, in my dealings with OMB in the past, it has always kept a pretty good watch on these things, kept a pretty sharp pencil, a pretty close eye looking over the entire Federal Government in dealing with the budget. However, it seems like this is one area that is pretty fuzzy as far as you people are concerned, and as I said, you are relying on an awful lot of trust.

I am sure that we have a lot of management people that are fine folks. I am sure that they are doing the best they can in the jobs they have. But there has been an awful lot of pressure applied because of the budget deficit, and there are a lot of management personnel out there that I am sure are feeling the strain, and it is difficult for them.

I really think that we must take a hard look at this area. You must acquire some understanding of how much is being spent—not

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just for the specific item that might go in such a film—but also how much is being spent on studios, equipment and what you will. Maybe you ought to send somebody down to the next video show and take names and pictures of all the folks that show up. Find out who buys all the equipment, that might be interesting to know how much we have.

Mr. SOWLE. I think that would be an infringement of their rights for us to do that, sir.

Mr. ENGLISH. I would agree 100 percent.

Mr. SOWLE. I would not leave you with the impression——

Mr. ENGLISH. I am hopeful that you would come up with a suggestion that would indicate we wouldn't have to go that far just to find out what has been done.

Mr. SOWLE. I would like to remind you again, Mr. Chairman, that we are not the budget side of OMB, and don't get involved in everything they do. I am sure they have very good control over the budget, and they look at it very carefully. I don't think anybody has looked at the budget any more carefully than the current director of OMB.

Mr. ENGLISH. I would hope that you would do this, and I would hope OMB would. I hope OMB will institute some method in which there would be a means of determining the amount of new equipment, for instance, that is being purchased. I hope that OMB would recognize that, if you have a big show that is coming into Washington, it is coming here because of the Federal Government. That is the reason it is coming in here.

Mr. SOWLE. I think your point has some merit, Mr. Chairman. We certainly will look into that. It has some merit.

Mr. ENGLISH. Obviously there are some areas that we need to look at. I hope OMB would contact GSA and pull out some of the money that is being spent on studios and the amount of space that we have. I hope that we would tie down the amount of duplication that is taking place, and if your estimate is that 50 percent of the audiovisual materials being produced can be produced cheaper by private industry, we would take a hard look at that.

My goodness, I hope that we would be able to deal with some of these problems without having legislation passed, particularly with something as obvious as this.

What it comes down to is good sense, just good sense. I hope that OMB will look at that.

Mr. SOWLE. We will take a look at it, Mr. Chairman.

Mr. ENGLISH. I appreciate that. I sure do, Mr. Sowle. Unfortunately we have another vote, and I have just about run out of questions. I appreciate you coming before us. We would appreciate receiving in a timely fashion the answers to those questions that you promised us. As I said, I hope that OMB will take a real hard look at this issue.

[Information submitted by Mr. Sowle subsequent to hearing follows:]

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL
PROCUREMENT
POLICY

JUL - 5 1984

Honorable Glenn English
Chairman, Subcommittee on
Government Information, Justice
and Agriculture
Government Operations Committee
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

During my testimony before your Subcommittee on June 29, 1984, I indicated that certain information you requested about Government audiovisual activities would be provided for the record. This information is set forth below:

1. Based on data we received from the Office of Personnel Management, there were 897 persons in Federal Occupation Series, 1071, Audiovisual Production, as of March 1983. The average General Schedule grade of these persons is estimated as 11.1. Accordingly, their combined annual salaries would be approximately $22.8 million.

2. The mission of the Directorate for Audiovisual Management Policy, Department of Defense, is stated on the enclosed "Mission Outline." This statement was obtained from the Directorate.

3. The executive branch does not maintain information regarding the current value of its capital investment in audiovisual production equipment and facilities. The compilation of the current value of these assets would be expensive and would require an extensive appraisal and reporting effort without apparent benefit to the taxpayers. Personal and real property resources within the executive branch are generally managed in accordance with the Federal Property Management Regulations. These regulations are promulgated by the General Services Administration, and each agency and department is directly responsible for complying with them. The agency heads are also responsible for assuring compliance with specialized policies such as those contained in OMB Circular A-114.

4. During fiscal year 1983, the executive branch agencies and departments spent approximately $1.6 million for major purchases of photographic equipment and supplies. Included are expenditures for aerial, mapping and still picture cameras; projection equipment, screens and viewers; developing and finishing equipment; sensitized paper, film and special purpose chemicals; accessories

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and special test equipment. These items are used for a variety of purposes in addition to the producing of audiovisual productions. Such uses include reconnaissance, intelligence, scientific documentation, research, engineering and mapping work. Data are not available to indicate the percentage of the purchases made solely for audiovisual production purposes.

Sincerely,

Donald E. Sowle

Donald E. Sowle
Administrator

Enclosure

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MISSION OUTLINE

Directorate for Audiovisual Management Policy

The Directorate for Audiovisual Management Policy fulfills, within the Department of Defense, the requirement of OMB Circular A-114, "Management of Federal Audiovisual Activities," that the head of each Federal agency designate an office to be responsible for the management oversight of the agency's audiovisual activities. To execute its responsibilities, the Directorate implements Public Law and Federal audiovisual policy and standards, and provides overall policy guidance, management objectives and, as needed, standardized procedures for DoD AV activities. It evaluates the effectiveness of and compliance with existing policy and takes or recommends appropriate corrective action. OMB's audiovisual policy is implemented in the DoD by DoD Directive 5040.2, "Audiovisual Activities." The Director acts as Executive Agent for the Office of Federal Procurement Policy, OMB, operating the Federal Audiovisual Contract Management Office. (on behalf of the SEC DEF and ASD(PA))

The Plans and Programs Officer determines requirements for, develops and coordinates long range AV objectives, concepts, plans and programs. He prepares or guides preparation of directives, instructions, regulations and memoranda implementing Federal and DoD policy and Public Law. He evaluates the effectiveness of existing guidance and makes recommendations for needed changes. He acts on behalf of the Director in his absence.

The Resources Division develops policy concerning the management of AV resources. This includes guidelines for the authorization, establishment, operation and use of AV facilities, and the requirements for, acquisition and standardization of AV equipment in DoD. It collects information on DoD AV resources for DoD, OMB and Congressional management purposes. Its Chief chairs the DoD Audiovisual Standardization Panel of the Defense Materiel Standardization and Specifications Office.

The Products Division prepares DoD policy concerning the production of AV products (in-house and contract), the acquisition of off-the-shelf AV products, their distribution and use, and the preservation and retirement of AV materials and records. Its Chief chairs the Joint-Interest AV Production Working Group which is responsible for avoiding unwarranted duplication of AV products and for overseeing joint-interest production requirements. It oversees several data bases of the Defense Audiovisual Information System which contain records on current and obsolete DoD AV productions (including a DoD Catalog of AV Productions), handle the booking and distribution of these products, and identify and locate DoD AV depository holdings (both still and motion). Its Chief chairs the Interagency Audiovisual Review Board on behalf of the Director.

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The Federal Audiovisual Contract Management Office operates as an extension of the Office of Federal Procurement Policy, OMB, at OFPP's request and the Deputy Secretary of Defense's concurrence. It administers and maintains the Government-wide audiovisual production contracting system under the direction of the Director, DAVMP. It maintains the official lists of qualified motion picture and videotape producers qualified for work with the Federal government. It administers the Interagency Audiovisual Review Board which qualifies producers for inclusion on the lists and reviews all proposed contracting documents for conformance to the Federal requirement. It maintains a management information system on all government production contracts and serves as a central source of information on government production contracting activities and procedures.

Mr. SOWLE. Thank you very much, Mr. Chairman.

Mr. ENGLISH. Thank you very much. I appreciate it.

We will recess subject to the call of the Chair.

[Whereupon, at 11:35 a.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

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APPENDIXES

APPENDIX 1.—LETTER TO CHAIRMAN GLENN ENGLISH DATED JULY 10, 1984, FROM JAMES B. FAICHNEY, SUBMITTING AN "EXTENSION OF REMARKS" FOR THE RECORD

Directors Guild of America, Inc.
GOVERNMENT
AUDIO-VISUAL COMMITTEE
• 7950 SUNSET BOULEVARD • LOS ANGELES 90046 • 213 656-1220
• 110 WEST 57TH STREET • NEW YORK 10019 • 212 581-0370
• 520 N. MICHIGAN AVE., SUITE 436 • CHICAGO 60611 • 312 644-5050

Please address reply to New York City office

July 10, 1984

Congressman Glenn English
Chairman
Sub-Committee on Government Information,
Justice and Agriculture
Room B 349 C
Rayburn House Office Building
Washington, D.C. 20515.

Dear Congressman English,

Reference my telephone conversation with Sub-Committee Counsel, Leo Jardot, I would like this 'extension of remarks' included in the record of the recent public hearing on H.R. 3325, the Federal Audio-Visual Policy Act.

In the testimony, both verbal and written, of Mr. Donald Sowle, Administrator of the Office of Federal Procurement Policy, there were several remarks which I would like to rebut for the motion picture and television industry whose interests I represent.

A) Mr. Sowle fails to acknowledge that the policies and procedures set forth in Circular A-114 and Policy Letter 79-4 stem from pressures placed on succeeding Administrations by the motion picture and television industry. These policies and procedures contained in A-114 and 79-4, however, have not gone far enough, in our opinion, nor have they been implemented by any Administration in any detail that has had any affect on the production of audiovisual materials, ie:

1) in eliminating in-house competition with the private sector; and/or
2) in establishing quality and competency guidance procedures for selection of audiovisual producers seeking Government contracts.

B) The Presidential moratorium on audiovisual production could have been a useful tool in eliminating wasteful expenditures if OMB, in our opinion, had not developed "management plans" which are almost incomprehensible to the private sector producer and the department or agency head involved in the acquisition of necessary audiovisual productions for information, education and training use.

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The fact that a 'general decrease' has occurred in Federal audiovisual activity does not mean that Government has been well-served by these "management plans". We do not know what essential audiovisual material may not have been produced and what unessential material has been produced in the various agencies as they attempted to understand the OMB regulation.

C) The proposed revision of Circular A-114 will be the subject of future remarks to you once we, in the industry, have the opportunity to evaluate them. We are uneasy about several items mentioned in Mr. Sowle's statement.

D) With regard to the Grace Commission report on audio-visual activities, we must make it abundantly clear that no one representing the motion picture and television industry supplied any concrete input to that Commission. I, personally, spoke briefly, on the telephone, with a member of the Commission staff and sent some background material for their use. There was no follow-through prior to the release of the report. A copy of our letter to the Commission is attached, for your information.

E) In his prepared testimony, Mr. Sowle states: "The policies proposed by H.R. 3325 duplicate, and would place into law, those executive branch policies now contained in OMB Circular A- 114....."

If H.R. 3325 duplicates Circular A-114, why should there be an objection on the Administration's part to have this Bill enacted into law ? I would think that OFPP would welcome having the added strength of Public Law.

The answer may be also the answer to the question you raised, at the close of the hearing, regarding the need for legislation. This can best be answered by questioning why these rules and regulations should not become Public Law. The Administration officials in charge of establishing policies in this area, a part of the continuing bureaucracy, have accepted certain industry-proposed actions —— but always with an escape clause and with no follow-through.

Lip-service seems to be the bureaucratic 'order-of-the-day.

If these rules are placed into Public Law, more than lip-service will be required of any Administration.

F) Mr. Sowle further stated that this legislation would create "another bureaucracy".

We like to view this from the other side of the mirror. The personnel roster for a newly created Office of Federal Audio-Policy would by law consist of no more than 35 individuals.

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(I, personally, believe the objectives of an OFAVP would be well-served with a staff of 10 - 15 carefully selected professionals.)

The OFPP, at present, has a staff of x individuals working in this area, plus the staff of their Executive Agent, the Defense Audiovisual Agency (DAVA). Our view is that a bureaucracy plus would be eliminated by this legislation. A new one would not be created.

For your information, (1) the figures included in my statement referring to production $'s spent, personnel involved, and office and studio space utilized come from published sources ie Federal reports and national publications; and (2) our industry was slightly embarrassed when we learned from Mr. Sowle that audiovisual budgets were lumped with motor pool and garbage removal costs. We really feel that our industry deserves more consideration than this, even, if granted that garbage removal is an essential service.

We want to thank you again for scheduling these hearings on such an important issue to us as an industry.

Sincerely,

James B. Fitchney
Chairman
Government Audio-Visual Committee
Directors Guild of America.

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Joint Management — Labor Committee
On Government Audio-Visual Policy
35—11 35th Avenue • Astoria, New York 11106 • (212) 729-5240

5 August 1983

Coordinators
John Giles
Steve D'Angelo
James B. Fachney
Sam Robert

American Federation of Television and Radio Artists
Association of Independent Commercial Producers (A.I.C.P.)
Directors Guild of America
Hollywood Film Council
I.A.T.S.E.
I.B.E.W.
Independent Radio Producers Assoc.
Motion Picture Association of America
N.A.B.E.T.
National Conference of Motion Picture and Television Unions
Screen Actors Guild
Videotape Production Association
Writers Guild of America

Producers
William Bindley, President
M.C.A. Corporate Films, Inc. (Executive)
George Cannata,
Vice Pres., E.U.E. Screen Gems, Inc.
Bo, Columbia Pics
Bailey L. Compton, Vice Pres.,
Jefferson Productions, Inc.
Robert Crane, President
American Film Productions, Inc.
Joseph Cilento,
Executive Vice President, The Chase Group
Robert Friedl,
President, Paramount Communications Inc.
Charles Schmid,
President, Acacia Pictures, Inc.

Mr. J. Peter Grace
W.R. Grace and Co.
1114 Avenue of the Americas
New York, New York

Mr. F. David Gorman
Greenwich, Connecticut

Ms. Rosemary Machalek
Data Resources, Inc.
1750 K Street, N.W.
Washington, D.C.

Central Reference and Records Inspection Facility
Room 6628, Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C.

Reference: The President's Private Sector Survey On Cost Control, Management Office Selected Issues, Volume I, Publishing, Printing, Reproduction and Audio-Visual Activities.

Dear Mr. Grace, Mr. Gorman, Ms Machalek and other interested parties,

This will acknowledge receipt on 30 July, a copy of reference report. We regret not having received this Volume at an earlier date along with the information regarding your 13 July meeting and discussion on the material contained therein.

We do not agree with the conclusions and recommendations made by the Private Sector Survey audio-visual task force.

The Joint Management - Labor Committee (JMLC) On Government Audio-Visual Policy represents a majority of this nation's television and motion picture production organizations and the technicians and talent who make their livelihood by employment in the private sector organizations within this industry.

We are sending this letter to you as we do not believe that the private sector motion picture and television industry has received fair and adequate consideration in your evaluation of the position of Government in the production and distribution of audio-visual materials. We believe this letter and the information contained herein must be included as an addendum to the PSS Task Force Report.

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On May 11, 1982, we forwarded to Mr. J.W. Nance of the task force, a copy of a JMLC pamphlet, THE THREE BILLION DOLLAR QUESTION. On page 67 of reference report, it is stated: - "...pressures from the film industry, in particular, and related labor groups foster the notion that Federal expenditures went beyond the 1977 reports (NAC) $ 500 million into the range of $ 3 Billion and popularized the perception of a "Hollywood-on-the-Potomac."

Later, in your report, you state:- "Previous claims which stated the magnitude of the Federal Audiovisual activities to be in the billions of dollars have not been substantiated."

UNTRUE !!!!

Based on U.S. Government figures from official reports, the following figures were substantiated:- (1977/1978)

1) Five hundred million dollars Government expenditures, annually, for audio-visual production;

2) Five hundred million dollars as a minimum expenditure, annually, for salaries of over 23,000 audio-visual related personnel; and

3) Over 2 Billion dollars in equipment inventory, much of it crated and standing on various Government loading docks.

A total of over 3 Billion dollars.

With regard to "Hollywood-on-the-Potomac", a journalistic developed headline, a representative of the private sector industry, testifying before a Sub-Committee of the House Committee on Government Operations stated:-

"Government audio-visual production is not 'Hollywood-on-the-Potomac', Nor is it New York...nor Chicago ... nor Detroit-on-the-Potomac, for all of these audio-visual production centers, and others across the nation, are the homes, in the majority, of professional producers of quality film and videotape motion pictures.....many of those individuals who work for Government, both contractor and in-house unit personnel cannot be called professional and quality product does not evolve from their endeavours. So, Hollywood-on-the-Potomac Government audio-visual production is not."

In the task force report, there are utilized figures and charts from the National Audiovisual Center (NAC) to substantiate a huge reduction in Government AV production. If these conclusions are accurate, it shows that industry pressures have forced Government to take a second-look before allocating funds for any unnecessary product. As taxpayers, we would hope this is true.

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However, Mr. John McLean, head of NAC, has reported at various times to industry representatives that the NAC figures are not accurate due to incomplete reporting of such statistics from Executive Departments and Agencies. The United States General Accounting Office Report B-204450 confirms this lack of accurate reporting.

There is further stated on pages 73,74 and 75 of the task force report:- "In terms of unit output, Government in-house production far exceeds production contracted out to the private sector and is expected to be the continuing trend in the industry due to technological, cost-effective advances...In the Government as well as the private sector, videotape has become the prevalent medium for in-house communication and employee training and is most suitable to in-house production...Government data show very little videotape work is being contracted out (approximately 8 percent of the total minutes of videofilm in 1982) and the cost of contract production for video work was seven times the in-house cost per minute. Similarly, contracted motion picture film production was 26 times the in-house cost per minute of film...Government in-house production facilities are becoming more efficient and the use of more costly, custom-produced material more carefully planned..."

"The management of Federal motion pictures and other audio-visual production has been adequately institutionalized by OMB and the individual agencies. The management controls and guidelines for audiovisual activities have been well-guided at the central level and the agencies report satisfaction with their progress through improvements attributed largely to the OMB initiatives."

We question the validity of the cost figures of private sector vice in-house production since in-house production cost have never been accurately reported and have never included the costs incurred for the re-making of a project several times over, to get it right, nor have they included personnel salaries, nor overhead costs (ie telephone, office furniture, office space, etc.) and other related, relevant $ figures..And as indicated above, the reporting by Govern-ment units is not an accurate reflection of production cost figures.

It seems that OMB and agency bureaucrats have convinced the PSS task force that their current operations are working.

THEY ARE NOT !!!

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Your admission that Federal motion picture and other audio-visual production has been "adequately institutionalized" raises many questions. Primarily, it seems that such in-house institutionalization is in direct violation of another OMB Management Circular, namely A-76, which states:-

> "It is the policy of the United States Government to...rely on private enterprise to provide commercial goods and services..."

Office of Management and Budget Circular A-114 seems to be totally accepted by your task force as the ultimate in management guidelines with regard to Federal Government audiovisual activities, with Policy Letter 78-5 implementation a guarantee for improvement of contracting procedures. You have paid no attention to the General Accounting Office Report B-198360 which declares Circular A-114 "legally defective" and Policy Letter 78-5 "unduly restrictive of competition."

This Joint Management - Labor Committee supplied your task force with background materials regarding Federal audiovisual activities and recommended the review of certain Government reports and documents. No one from the JMLC was personally interviewed by a member of your task force, although you so indicate such was the case in Item VI of the report.

Finally, with regard to the task force recommendations, representatives from the audiovisual private sector attempted to have this problem alleviated by Administrative action or by Executive Order. After many years of meetings, conferences and conversations, we arrived at the conclusion that Congressional action was necessary to alleviate these Federal audiovisual problems by the establishment of quality management procedures under Public Law.

We now have legislation before the Congress that faces most of the audiovisual issues within Government. A copy of HR 3325 is attached for your information. It is highly recommended by this Joint Management - Labor Committee that your current recommendations be revised to recommend the President's support of this legislation along with Executive Office indication of such support to the Congress.

We believe that Federal audiovisual production requires expertise and professionalism, available in the private sector, not "institutionalized bureaucracy."

Sincerely,

James B. Faichney, Coordinator
for Steve D'Inzillo, John Giles and Sam Robert.

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Appendix 2.—Statement of Jack Valenti, President, Motion Picture Association of America, Inc., Concerning H.R. 3325

STATEMENT OF

JACK VALENTI

PRESIDENT, MOTION PICTURE ASSOCIATION OF AMERICA, INC.

ON

FEDERAL AUDIOVISUAL POLICY,

H.R. 3325,

BEFORE THE

GOVERNMENT INFORMATION, JUSTICE, AND AGRICULTURE

SUBCOMMITTEE

OF THE

HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

JULY 3, 1984

(104)

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Mr. Chairman, Members of the Committee, I am president of the Motion Picture Association of America, Inc., whose members are producers and distributors of theatrical and television programs in the United States. Also, I am the Chairman of the Alliance of Motion Pictue and Television Producers, Inc., in Hollywood, whose 31 members include independent producers and syndicators of television programming and theatrical films. Attached to my statement is a list of members of both organizations.

I am submitting this statement in support of H.R. 3325, the Federal Audiovisual Policy Act, introduced by Representative Roybal on June 15, 1983 and referred to your Subcommittee for appropriate action.

The Motion Picture Association has long supported legislation similar to H.R. 3325. Nearly six years ago, I submitted a statement in support of H.R. 12923, a measure introduced by Representative Roybal on June 1, 1978 that sought to deal with the same problems the American film industry faces today in dealing with Federal policy governing the production of motion pictures, television film and tape and audiovisual materials.

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The Motion Picture Association believes that the private sector has the expertise, the talent, and the efficiency that can economically produce most of the audiovisual materials that our Federal agencies need and distribute.

You have already heard from other witnesses who have portrayed in some detail the problems that this legislation is seeking to correct. This legislation simply provides that the Federal Government establish a uniform Federal policy for filmmaking for governmental use, and that the private sector be given a reasonable opportunity to produce quality audiovisual works to the maximum extent possible at the lowest possible cost.

The bill is based upon the sound premise that the government ought not to be producing films in-house if there is a better, more effective, less wasteful way to do so through the private enterprise system.

Everyone recognizes that there may be instances when the national interest requires a Federal agency to produce a film that is a classified documentary or relates to some classified use. This bill would not prevent a Federal agency to continue to produce such films.

The issue confronting this committee relates to whether governmental agencies ought to maintain expensive in-house film production staff, facilities, and expenditures simply because departments prefer to make audiovisual according to old policies that are no longer cost efficient.

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The Federal Government would not think of setting up government industries to produce defense hardware, office furnishings, and a multitude of other products that it utilizes daily in performing its governmental functions.

Yet, Federal policy seems wedded to the notion that some curious reason requires the Federal government to produce films and audiovisual materials. This policy ignores the fact that making quality films and audiovisual works is a tormentingly difficult task that requires skill and collaborative efforts of writers, directors, producers, cinematographers, composers, and technicians, all of whom meld their talents into the composite work. Why should the Federal government ignore the value and the efficiency of using the vast creative talent of the film industry and insist on relying to an inordinate degree upon in-house production in many agencies at excessive cost to taxpayers?

This is passing strange at a time when everyone is concerned about governmental efficiency, eliminating waste, and keeping governmental expenditures at reasonable levels.

The American film industry has the expertise and the capability of producing films that have won world-wide acclaim. It makes sense for the Federal government to utilize this vast pool of talent that is readily available.

I find it difficult to justify the reasoning which continues to pervade current Federal audiovisual policy that the preponderence of film, tape, and audiovisual materials must be produced in-house.

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Representatives of the film industry have had innumerable meetings with administration officials over the last decade to seek a meaningful solution to this problem. These efforts have been to no avail.

We turn to Congress for assistance. We believe that our plea is meritorious. We ask that the Subcommittee favorably report H.R. 3325 in the belief that it would bring modern day efficiencies to Federal audiovisual policies.

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The nine major producers and distributors of theatrical and television programs in the United States comprise the membership of the Motion Picture Association of America, Inc. These companies are:

Columbia Pictures Industries Corp.

Walt Disney Productions/Buena Vista Distribution Co., Inc.

Embassy Communications

MGM/UA Entertainment Co.

Orion Pictures Corporation

Paramount Pictures Corporation

Twentieth Century-Fox Film Corporation

Universal Pictures, a division of Universal City Studios, Inc.

Warner Bros., Inc.

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MEMBERS OF THE

ALLIANCE OF MOTION PICTURE &

TELEVISION PRODUCERS, INC.

AARON SPELLING PRODUCTIONS

STEPHEN J. CANNELL PRODS.

COLUMBIA PICTURES

GLEN GLENN SOUND

LEONARD GOLDBERG CO.

HANNA-BARBERA PRODUCTIONS, INC.

THE LADD COMPANY

LORIMAR PRODUCTIONS

METRO-GOLDWYN-MAYER FILM CO.

METROMEDIA PRODUCERS CORP.

MTM ENTERPRISES

ORION TV PRODUCTIONS, INC.

PARAMOUNT PICTURES CORP.

RAY STARK PRODUCTIONS, INC.

TANDEM/EMBASSY COMMUNICATIONS

TWENTIETH CENTURY-FOX FILM CORP.

UNIVERSAL CITY STUDIOS, INC.

VIACOM INTERNATIONAL, INC.

WALT DISNEY PICTURES

WARNER BROS.

WITT/THOMAS/HARRIS PRODUCTIONS

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